GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

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THE

COORG CODE:

CONSISTING OF

THE BENGAL REGULATION, THE LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL THE ACTS OF THE GOVERNORS OF FORT ST. GEORGE AND BOMBAY IN COUNCIL, AND THE REGULATIONS MADE UNDER THE STATUTE 33 VICTORIA, CAP. 3, IN FORCE IN COORG,

AND

A LIST OF THE ENACTMENTS WHICH HAVE BEEN DECLARED IN FORCE IN, OR EXTENDED TO, COORG BY NOTIFICATION UNDER THE SCHEDULED DISTRICTS ACT, 1874;

WITH

A CHRONOLOGICAL TABLE AND AN INDEX.

SECOND EDITION.

CALCUTTA:
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PREFACE.

THIS, the second edition of the Coorg Code, contains (*i*) the Bengal Regulation, the Local Acts of the Governor General in Council, the Acts of the Governors of Fort St. George and Bombay in Council, and the Regulations made under the Statute 33 Vict., Cap. 3, in force in Coorg, with a Chronological Table showing all repeals and amendments affecting Coorg, and an Index, and (*ii*) a list of the enactments which have been declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874.

The Acts of the Governor General in Council which apply to Coorg in common with the rest of British India are printed in the volumes of General Acts published or to be published by the Legislative Department.

2. Part I of the volume is based on Clarke's edition of the Bengal Regulations, published in 1854 under the authority of the Court of Directors of the East India Company; Parts II, III and IV on official copies of the Acts and Regulations preserved in the Legislative Department; and the Appendix on notifications published in the Gazette of India and in the Coorg District Gazette. Though the volume cannot be described as "authoritative," its accuracy is guaranteed by the Legislative Department.

3. The following changes have been made in reprinting the Regulations and Acts:—

(*a*) repealed matter has been omitted, explanatory notes being inserted;

(*b*) amendments made by later enactments have been inserted in the text of the enactment amended, with explanatory foot-notes; or, where this was not practicable, the amendment has been mentioned in a foot-note;

(*c*) references to repealed enactments have been altered as directed by the enactment which effects the repeal, explanatory foot-notes being inserted;

(*d*) the number and year of enactments referred to in the text have been noted in the inner margin, except where both appear in the text;

(*e*) Arabic numerals have been substituted for the Roman numerals used in the Bengal Regulation and in the earlier Acts to denote the section-numbers;

(*f*) section-numbers occurring in the text have been uniformly printed in figures, instead of in words;

(*g*) words belonging to Oriental languages have been uniformly spelt;

(*h*) lengthy sections have in some cases been divided into paragraphs;

(*i*) the marginal notes have in some cases been revised;

(*j*) a table of contents has in some cases been inserted;

(*k*) the headings to the pages have been amplified;

(*l*) some foot-notes, in addition to those mentioned in clauses (*a*), (*b*) and (*c*) above, have been added for convenience of reference.

4. Acts IX of 1885 and II of 1887 (*amending the Sea Customs Act, 1878, the Excise Act, 1881, etc.*), though partially local in their operation, have not been printed in this volume, as they appear in the volume of General Acts for 1885-88. Similarly, Act XIII of 1890 [*Excise (Malt Liquors)*], though partially local in its operation, is reserved for the next volume of General Acts.

5. This volume has been corrected up to the 1st March, 1893.

F. G. WIGLEY,

Offg Deputy Secy. to the Govt. of India,
Legislative Department.

CALCUTTA:
The 3rd March, 1893.

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CHRONOLOGICAL TABLE.

PART I.—BENGAL REGULATION IN FORCE IN COORG.

Year.	No.	Subject.	Repeals and amendments affecting Coorg	Page.
1818	III	State Prisoners . .	Rep. in part, XVI of 1874; Amended, XII of 1891; Supplemented, XXXIV of 1850; III of 1858.	1

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN COORG.

Year.	No.	Subject.	Repeals and amendments affecting Coorg.	Page.
1860	XXVIII	Boundary-marks . .	Rep. in part, XIV of 1870; Amended, XII of 1891.	8
1867	III	Gambling . . .	Rep. in part, XVI of 1874; Amended, XII of 1891.	16
1870	XXVI	Prisons . . .	Rep. in part, XII of 1873; XVI of 1874; Rep. in part and amended, XII of 1891; Amended, XIV of 1878.[*]	25
1873	XV	Municipalities . .	Rep. in part, XVI of 1874 .	41
1878	XVII	Ferries . . .	Amended, III of 1886 .	53
1879	XIV	Hackney-carriages . .	Rep. in part, XIII of 1889 .	61
"	XX	Glanders and Farcy .	Rep. in part, XXIV of 1886,[*] XII of 1891.	66
1880	XIII	Vaccination . . .	.. ..	69
1881	XXII	Excise	Rep. in part, XIII of 1889; Rep. in part and amended, XX of 1890,[*] s. 43; Amended, VI of 1885; IX of 1885; II of 1887, ss. 5 and 6; XVIII of 1888,[*] s. 7, XIII of 1890, ss. 2 to 5; XII of 1891.	78

[*] Acts XIV of 1878, XXIV of 1886, XVIII of 1888 and XX of 1890 do not apply to Coorg, but the modifications which they effect are noted in this table and in the text for convenience.

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PART IV.—REGULATIONS MADE UNDER THE STATUTE 33 VICT., CAP. 3, FOR COORG.

Year.	No	Subject.	Repeals and amendments.	Page.
1880	III	*Land-revenue* . . .	*Rep., Reg. I of 1889.*	
1881	I	*Repealing Madras Acts I of 1863 and I of 1873 in Coorg.*	*Rep., Reg. I of 1893.*	

PART IV.—REGULATIONS MADE UNDER THE STATUTE 33 VICT., CAP. 3, FOR COORG—*concld.*

Year.	No.	Subject.	Repeals and amendments.	Page.
1881	II	Courts	Rep. in part, Reg. I of 1893 Rep. in part and amended, Reg. I of 1885.	132
1885	I	Courts (amending Regulation II of 1881).	.....	137
1886	IV	*Validation of certain decrees and orders made by Parpattigars.*	*Rep., Reg. I of 1893.*	
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BY ORDER OF THE LIEUTENANT GOVERNOR OF BENGAL * FOR WRITED

THE COORG CODE.

PART I:

BENGAL REGULATION IN FORCE IN COORG.

A REGULATION FOR THE CONFINEMENT OF STATE PRISONERS.

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    Attached lands not liable to sale in execution.
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11. Rules as to cases where Government orders release of estate from attachment.

REGULATION III OF 1818.[a]

Passed on the 7th of April, 1818.

A Regulation for the confinement of State Prisoners.[b]

1. WHEREAS reasons of State, embracing the due maintenance of the Preamble.

[a] Bengal Regulation III of 1818 was extended to Coorg by notification under the Scheduled Districts Act, 1874—see Appendix, p. 165.

[b] For further provisions, see Acts XXXIV of 1850 and III of 1858, in General Acts, 1834-66, Ed. 1887, pp. 70 and 138, respectively.

alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, taluqdars and others situated within the territories dependent on the Presidency of Fort William, should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

Proceeding for placing persons under restraint as State prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secre-

tary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Second.—The warrant of commitment shall be in the following form :— Form of warrant.

To the[a] [*here insert the officer's designation*].

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council,

"*A. B.*, Chief Secy. to Govt."

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William. Authority of warrant.

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health, and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified. Officers having custody of State prisoners to submit periodical reports.

4. *First.*—When any State prisoner is in the custody of a Zila or City Magistrate, the Judges[b] are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head. State prisoners in custody of Zila or City Magistrate by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila or City Magistrate the Governor General in Council will instruct either the Zila or City Magistrate, or the Judge[b] or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner. State prisoners in custody of other officers by whom to be visited.

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[a] As to direction of the warrant, see Act XXXIV of 1850, s. 1, in General Acts, 1834-66, Ed. 1887, p. 70.

[b] Words repealed by Act XVI of 1874 are omitted.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, etc., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8. [*Persons already confined as State prisoners.*] *Repealed by Act XVI of 1874.*

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindar, jagirdar, taluqdar or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated,[a] and [b]to the Sadr Diwani Adalat and Nizamat Adalat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khas management,

Attached lands not liable to sale in execution.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Rules as to cases where Government

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have

[a] Words repealed by Act XVI of 1874 are omitted.
[b] The word "and" was inserted by Act XII of 1891.

ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

orders release of estate from attachment.

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PART II:
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ACT XXVIII OF 1860.

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ACT No. XXVIII OF 1860.[a]

(*Received the Governor General's assent on the 29th June, 1860.*)

An Act for the establishment and maintenance of boundary-marks, and for facilitating the settlement of boundary-disputes in the Presidency of Fort Saint George.

Preamble.

WHEREAS it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from, the public revenue in the Presidency of Fort Saint George, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of fields, holdings, estates and villages, and for facilitating the settlement of boundary disputes and claims; It is enacted as follows:—

1. [*Repeal of Act XX of 1855.*] *Repealed by Act XIV of 1870.*

Power to fix boundaries and to require clearance of boundary-line and maintenance of marks.

2. It shall be lawful within the said Presidency for a Collector of land-revenue, or person exercising the powers of Collector, or for any Revenue-settlement-officer, and also for any other officer appointed by the Government for the purpose, whenever he may be of opinion that such demarcation is

[a] Act XXVIII of 1860 was extended to Coorg by Notification No. 52, dated 15th February, 1865, which runs as follows.—"Under the provisions of s. 1 of Act I of 1865, His Excellency the Viceroy and Governor General of India in Council is pleased to extend Act XXVIII of 1860 to the Province of Coorg"—see Gazette of India, 1865, p. 186.

necessary for the prevention or adjustment of disputes (or for conducting and perpetuating a survey or a settlement of land-revenue), to fix the boundaries of fields, holdings, estates of villages, and to require the owner or occupant of the field, holding or estate, or the headman (by whatever name designated) of the village, to clear the boundary line where overgrown with jungle, and also to set up, form and maintain boundary-marks, of such materials, and in such number and manner, as may be determined by such officer under the direction of the Board of Revenue, or of the Director of Revenue-settlement, as the case may be, to be sufficient to distinguish the limits of the field, holding, estate or village.

Power to require registry and production of title-deeds before survey.

3. It shall further be lawful for such officer aforesaid to call upon the owners or occupants of lands about to be surveyed, and also on all persons claiming to have any rights or interests in such lands, to register the rights and titles exercised or claimed by them in the lands, and to produce before him for inspection and registry all grants, title-deeds, and other documents connected with their claims.

Penalty for failure of owner, etc., to attend,

4. Any occupant or owner of land or other person whose attendance may be considered necessary for the purpose of this Act, who, on being summoned by such officer aforesaid, shall refuse or fail to attend at the demarcation, measurement or assessment of his field, holding or estate, or for the determining and marking the village-boundary, or for the investigation and registry of his rights and claims in relation to such holding, estate or property, or for the investigation and determination of any boundary;

and for false statement, etc.

and any person who shall wilfully make any false statement, or shall wilfully refuse or neglect, when called upon, to give any information in his power with respect to a boundary under enquiry,

shall be liable, by order of such officer aforesaid, to a fine not exceeding fifty rupees, to be levied by warrant under the hand of the officer imposing it, [a]in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts [a]

Service of notices on owners and occupants.

5. When a survey is in progress notices shall be served on the persons owning or occupying the fields, holdings, estates or villages concerned, requiring them to clear the boundaries, and to set up, form or repair, or to render such aid and labour as may be necessary to form or repair under the supervision of the Government officers, such boundary-marks as may be required, within a reasonable time; and, in the event of such persons not being found in their village, the notice shall be posted in a conspicuous place in the village, which

[a-a] These words were substituted for the original words and figures by Act XII of 1891.

shall be held to be a sufficient service, notwithstanding it may afterward appear that the owners or occupants were not correctly named or designated in the said notice.

Power to erect or repair marks at expense of owners or occupants.

6. In default of the owners or occupants of the fields, holdings, estates or villages complying with such requisition, he said officer may give directions for the erection and repair of the necessary boundary-marks, the cost of which shall be equitably apportioned on the fields, holdings, estates or villages which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such fields, holdings, estates or villages, in such manner as such officer aforesaid may consider just, and shall be levied in the same manner as arrears of land-revenue.

Procedure when owners or occupants require erection of boundary-marks at their expense.

7. Whenever such owners or occupants of any fields, villages, holdings or estates may generally signify their wish for the boundary-marks to be erected on the part of Government and the cost to be charged to them, or where, in arrangements for the demarcation of the general survey of a village, estate, talook or district, it may appear to such officer aforesaid to be desirable to undertake the demarcation of lands under a uniform system by the officers of Government, the officer aforesaid may proceed, without the previous notice prescribed in section 5, to the clearing of boundaries, and the erection and repair of the boundary-marks, and may recover the cost of the same, if unpaid, in the manner described in section 6.

In case of unoccupied fields, etc., cost charged to Government.

8. In the case of unoccupied fields, and of extensive hills and jungles in Government lands, the cost of marks for such fields, hills and jungles shall be charged to Government.

Penalty for erasing, etc., marks.

9. Any person convicted before a Magistrate or person exercising magisterial powers of wilfully and without lawful excuse erasing, altering, removing or injuring any boundary-marks whatsoever, whether established under this Act or otherwise existing, or any survey or other marks, or any marks set up for the purpose of the investigation or adjudication of disputes by an officer of Government or any person acting under his orders, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed or injured, of which fine a portion not exceeding one-half may be awarded to the informer, and the remainder shall be chargeable with the cost of restoring the mark; the fine to be levied in the mode prescribed above in section 4:

Reward of informer.

Extent of power to fine.

Provided always that a magisterial officer shall have power to impose a fine under this clause only to the amount to which he is competent to fine in misdemeanors under his general powers.

Costs how re-

Whenever it may not be possible to detect the person who erased, altered,

removed or injured such boundary or survey marks, the officer as aforesaid may give directions for the restoration or repair of the marks, and may order the cost thereof to be charged to the owners or occupants of the adjacent lands in such shares as may appear to him proper, or apportioned among the raiyats of the village in proportion to their land-assessment, as he may consider just and equitable, the same to be levied in the manner prescribed above in section 6.

covered when offender is not known or unable to pay.

10. If the parties interested in boundaries under dispute are desirous that the matter shall be referred to the final decision of one or more arbitrators, they may apply in writing to the Settlement or other officer aforesaid either in person or by their agents especially authorized on their behalf, and the Settlement or other officer aforesaid shall proceed to dispose of the case as hereafter provided.

Application for reference to arbitration.

11. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous that the nomination shall be made by the Settlement or other officer aforesaid, such officer shall appoint the arbitrator or arbitrators.

Nomination and appointment of arbitrators.

12. Where an equal number of arbitrators shall be appointed on each side, they shall collectively appoint another arbitrator to act with them, or in the event of their not agreeing or failing to appoint such further arbitrator, he shall be appointed by the Settlement or other officer aforesaid; and in all matters the majority shall rule the decision.

Majority of arbitrators to rule decision.

13. The Settlement or other officer aforesaid shall, by an order under his signature, refer to the arbitrator or arbitrators the matters in dispute which he or they may be required to determine, and shall fix such time as he may think reasonable for the delivery of the award, the time so fixed being specified in the order.

Order of reference.

14. When a reference is made to arbitration by an order of the Settlement or other officer, such officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry.

Arbitrators to be furnished with information.

He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the person so summoned to bring and produce before them all such books, papers, deeds, writings, maps and plans as they shall require.

Summoning witnesses.

Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector when acting judicially.

Extension of time for making award.

15. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Settlement or other officer aforesaid may enlarge the period for the delivery of the award, if he shall think proper:

Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Settlement or such other officer aforesaid, unless the award shall have been made after the issue of an order by the Settlement or other officer aforesaid superseding the arbitration and revoking the institution of the enquiry.

Appointment in place of arbitrators dying or refusing to act.

16. If, in any case of reference to arbitration by an order of the Settlement or other officer, the arbitrator or arbitrators shall die, or refuse or become incapable to act, it shall be lawful for the Settlement or other officer to appoint a new arbitrator or arbitrators in the place of the person or persons so dying, or refusing or becoming incapable to act.

Award how submitted to Settlement-officer.

17. When an award in any matter referred to arbitration shall be made, it shall be submitted to the Settlement or other officer aforesaid under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions and other records, or authenticated copies thereof relating to the matter.

Power to modify or correct award.

18. The Settlement or other officer may, on the application of either party, modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators: Provided such part can be separated from the other part and does not affect the decision on the matter referred, or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision.

Power to remit award or matter referred.

19. In any of the following cases the Settlement or other officer aforesaid shall have power to remit the award, or any of the matters referred to arbitration, to the re-consideration of the same arbitrator or arbitrators upon such terms as he may think proper: (that is to say)—

if the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

if the award is so indefinite as to be incapable of execution;

if an objection to the legality of the award is apparent upon the face of the award.

20. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators. Any application to set aside an award shall be made within ten days after the same has been submitted to the Settlement or other officer aforesaid.

Setting aside award.

21. If the Settlement or other officer aforesaid shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid, and if no application shall have been made to set aside the award, or if the Settlement or other officer as aforesaid shall have refused such application, the Settlement or other officer aforesaid shall proceed to pass a decision according to the award, and after duly furnishing the parties with a copy thereof, he shall proceed to mark out the boundary in accordance therewith subject to the provisions contained in this Act.

Boundary when to be marked out according to award.

In every case the decision given according to the award shall be final.

22. Where the claims and disputes relate to the occupancy of raiyats of zamindari and proprietary lands, the consent in writing of the Settlement or other officer aforesaid on behalf of Government and of the zamindars or proprietors interested shall be necessary for referring the disposal of such claims and disputes to arbitration, and the question of the disputed extent of such zamindari estate shall be determined as between the zamindar or proprietor on one part, and the Government on the other, the Government being represented by the Collector, Settlement or other officer aforesaid.

Reference to arbitration of disputes as to occupancy by raiyats of zamindari lands, etc.

23. The Settlement or other officer aforesaid shall not be considered incompetent by virtue of his office to undertake the duty of an arbitrator in cases in which the conflicting parties may be desirous to nominate him as such.

Settlement-officer may act as arbitrator.

24. A certified copy of every decision passed in accordance with the award of arbitrators under this Act by such officer aforesaid shall be forwarded by him to the Civil Court and be filed on its records.

Filing copy of decision.

25. Where the conflicting parties may not signify their agreement to refer the dispute to the final decision of arbitrators, or where any of the parties interested or concerned shall after due notice fail to attend for the investigation of the same, the Settlement or other officer aforesaid shall proceed to investigate the claims, and, in the case of any party failing to attend as aforesaid, shall make an *ex parte* investigation, and after examination of the witnesses and documents shall record his decision, and the grounds for arriving at it, and, after duly informing the parties of the same, he shall proceed to mark out the requisite boundaries in accordance with the decision, which, subject to the revision of the authority to whom the said officer is immediately subordi-

Procedure when parties do not agree to refer to arbitration, etc.

nate, shall be considered as the determination of all claims and disputes until set aside by a formal decree of a Civil Court.

Appeal.

An appeal shall lie to the Civil Courts from this decision by regular suit, provided it be preferred within two calendar months from the passing of the same :

Power to extend time for appeal.

Provided also that it shall be lawful for the Governor in Council, on just and reasonable cause for the same being shown, to extend the period for such appeal within such further period as may seem proper, and an order or endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the Civil Court to entertain such appeal beyond the limit above specified.

Proceedings of officers imposing charges or fines.

26. The proceedings of officers imposing charges or fines other than magisterial, under sections 4, 6, 7 and 9 of this Act, shall be recorded in writing, and shall be subject to revision by the authorities to whom such officers shall be immediately subordinate.

Appeal.

An appeal shall also lie to the Board of Revenue or to the Director of Revenue-settlement, according to the authority to which the officer imposing the charge or fine may be subordinate.

Appropriation of fines.

27. All fines levied under this Act shall be carried to the credit of Government, except when otherwise provided.

Officers empowered to enter and examine private lands.

28. It shall be lawful for all officers of survey and assessment, Revenue-officers, or other persons appointed by the Government for the purpose of investigating, settling or marking boundaries of fields, holdings, villages and estates, or measuring and assessing the same, and for all persons acting in aid and under orders of such officers, whenever it may be necessary in the performance of their duty, to enter, examine or measure, without let or hindrance, all lands whatever, whether such lands be the property of Government or of private companies or individuals; and such officers aforesaid, as well as workmen or other persons acting in aid of and under their orders, are hereby indemnified for what they or any of them shall do under the provisions of this Act.

Punishment for obstructing officers, etc.

29. If any person shall obstruct, molest or in any way interfere with any public servant conducting the demarcation, measurement or assessment of lands or performing other duties provided for in this Act, such person shall be liable, on conviction before a Magistrate or person exercising magisterial powers, to a fine not exceeding fifty rupees, or, in default, imprisonment not exceeding two months for the first offence, and for a repeated offence to a fine not exceeding one hundred and fifty rupees, or imprisonment not exceeding six months :

Provided however that a magisterial officer shall have power to punish under this clause only to the extent to which he is empowered to punish in cases of ordinary misdemeanour under his general powers.

Extent of power to punish.

30. It shall be lawful for the Governor in Council to invest any of the subordinates of the ordinary revenue establishments, or of the Settlement or Survey Departments, with any portion of the powers conferred under this Act.

Investing subordinate officers with powers.

31. Any Deputy Director of Revenue-settlement, being a Sub-Collector and Joint Magistrate, shall be competent to exercise, within the district within which he shall be employed, any of the powers ordinarily exercised by a Sub-Collector and Joint Magistrate within his charge: Provided however that such Deputy Director shall only have cognizance of cases and offences connected with the duties of the Survey or the Settlement Department.

Powers of Deputy Directors of Revenue-settlement.

In cases coming under Regulation IX, 1822,[a] of the Madras Code tried before a Deputy Director under this section, the power of control and revision provided by clause 3, section 3, Regulation VII, 1828,[b] of the same Code shall be exercised by the Director of Revenue-settlement.

Power of control and revision in cases under Madras Regulation IX of 1822.

32. All servants of the Survey and Settlement Departments shall be subject to the provisions of the said Regulations IX, 1822[a] and VII, 1828,[b] of the Madras Code, and those Regulations shall apply to the Survey and Settlement Departments in the same way as they apply to the ordinary Revenue Department.

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33. [*Pending cases.*] *Repealed by Act XIV of 1870.*

ACT III OF 1867.

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ACT No. III OF 1867.[a]

(*Received the Governor General's assent on the 25th January, 1867.*)

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma.[b]

Preamble.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William and[c] of the Lieutenant-Governor of the Punjab, and to the administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces

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[a] Act III of 1867 was extended to Coorg by notification under the Scheduled Districts Act, 1874—see Appendix, p. 168. The powers of a Chief Commissioner under the Act are exercised by the Chief Commissioner of Coorg—see paragraph 2 of the notification referred to.

[b] This reference to British Burma should now be read as referring to Lower Burma—see Act XX of 1886, s. 4, in Burma Code, Ed. 1889, p. 364.

[c] The word "and" was inserted by Act XII of 1891.

and of the Chief Commissioner of British Burma ;[a] It is hereby enacted as follows :—

1. In this Act— Interpretation-clause.

"Lieutenant-Governor" means the Lieutenant-Governor of the said North-Western Provinces or the Punjab, as the case may be :

"Chief Commissioner" means the Chief Commissioner of Oudh, the Central Provinces or British Burma,[a] as the case may be :

"common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever.

Words in the singular include the plural, and *vice versâ* ; and Number.

Words denoting the masculine gender include females. Gender.

2. [b]Sections 13 and 17[b] of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined. Power to extend Act.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

3. Whoever being the owner, or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house ; and Penalty for owning, or keeping, or having charge of, gaming-house.

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be

[a] These references to British Burma should now be read as referring to Lower Burma—see Act XX of 1886, s. 4, in Burma Code, Ed 1889, p 364

[b-b] These words and figures were substituted for the original words and figures by Act XII of 1891.

opened, occupied, used or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code,[a] for any term not exceeding three months.[b] XLV of 1860.

Penalty for being found in gaming-house.

4. Whoever is found in such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, [a] for any term not exceeding one month; [b]

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district or other officer invested with the full powers of a Magistrate,[c] or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place is used as a common gaming-house,

he may either himself enter or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming,

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[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[b] As to enhanced punishment for a second conviction of an offence punishable under s. 3 or s. 4, see s. 15, *infra*, p. 21.

[c] *Read* Magistrate of the first class—see Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place entered or searched under the provisions of the last preceding section or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any

stakes unnecessary.

common gaming house, to prove that any person found playing at any game was playing for any money, wager or stake.

Magistrate may require any person apprehended to be sworn and give evidence.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof of any Magistrate or officer authorized as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly, or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.[*] XLV of 1860.

Witnesses indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to apply to certain games.

12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.

Arrest without warrant

13. A police-officer may apprehend without warrant—

any person found playing for money or other valuable thing with cards, dice,

[*] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or

for gaming and setting birds and animals to fight in public place.

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

and such police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Destruction of instruments of gaming found in public place.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

Offences by whom triable.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, 1882,[a] as to the amount of fine or imprisonment he may inflict.

X of 1882.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Penalty for subsequent offence.

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Portion of fine may be paid to informer.

17. All fines imposed under this Act may be recovered in the manner

Recovery and application of fines.

[a] The reference to Act XXV of 1861 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department)

prescribed by sections 386, 387 and 389 of the Code of Criminal Procedure, 1882,[a] and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct. X of 1882.

18. [*Offences under this Act to be "offences" within meaning of Penal Code.*] *Repealed by Act XVI of 1874.*

THE PRISONS' ACT, 1870.

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[a] The reference to s. 61 of Act XXV of 1861 is altered in accordance with Act X of 1872, Sch. V, and Act X of 1882, s. 3. For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published in the Legislative Department.

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ACT No. XXVI OF 1870[a]

(*Received the Governor General's assent on the 3rd October, 1870.*)

An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in the North-Western Provinces, the Punjab, Oudh, the Central Provinces, [b]Coorg and Burma,[b] and to provide rules for the regulation of such prisons; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Prisons Act, 1870. Short title.

It extends only to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Punjab and under the administration of the Chief Commissioners of Oudh, the Central Provinces *and British Burma*[c]. Local extent.

[*Commencement.*] *Repealed by Act XVI of 1874.*

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[a] Act XXVI of 1870 is based on 28 & 29 Vict., c. 126.
[b-b] These words were substituted for the original words by Act XII of 1891.
[c] *Now read* Coorg and Burma—see preamble and s. 6.

2. [*Repeal of enactments.*] *Repealed by Act XII of 1873.*

Interpretation-clause.

3. In this Act—

"prison" means any gaol or penitentiary, and includes the airing grounds or other grounds or buildings occupied for the use of the prison;

"criminal prisoner" means any prisoner charged with or convicted of a crime;

and "civil prisoner" means any prisoner confined in a civil jail, or on the civil side of a jail.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

Local Government to provide prison-accommodation.

4. The Local Government shall provide for the prisoners in the territories under such Government, accommodation in a prison or prisons constructed and regulated in such manner as to comply with the requisitions of this Act[a] in respect of the separation of prisoners.

Temporary shelter of prisoners.

5. Whenever it appears to the Local Government that the number of prisoners in any prison is greater than can conveniently or safely be kept therein,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government from time to time directs, for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the prison.

Inspector General of Prisons.

6.[b] An Inspector General of Prisons shall be appointed in the North-Western Provinces, the Punjab and Oudh, by the Local Government, and in the Central Provinces, [c]Coorg and Burma,[c] by the Governor General in Council.[b]

In each Inspector General so appointed shall be vested (subject to the

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[a] See s. 30, *infra*, p. 31.

[b-b] This paragraph was substituted for the original paragraph by Act XIV of 1878, s. 2, printed, N.-W. P. & Oudh Code, Ed. 1892, p. 339.

[c-c] These words were substituted for the original words by Act XII of 1891.

orders of the Local Government) the general control and superintendence of all prisons situate in the territories under such Government.

7. For every prison there shall be a superintendent, a medical officer (who may also be the superintendent), a gaoler and such subordinate officers as the Local Government thinks necessary. Officers of prison.

Subject to the orders of the Governor General in Council, the Local Government may direct that for any specified prison there shall also be a deputy medical officer and a deputy gaoler.

8. The Local Government shall appoint the superintendent and the medical officer and the deputy medical officer. Appointment of officers.

The superintendent (subject to the approval of the Inspector General of Prisons) shall appoint the gaoler and deputy gaoler.

The superintendent shall also appoint the subordinate officers.

9. Every officer appointed under this Act shall receive such salary as[a] the Local Government directs; and may be suspended or dismissed by the authority appointing him : Salaries, suspension and dismissal of officers.

Provided that no gaoler or deputy gaoler shall be dismissed without the consent of the Inspector General of Prisons.

Any subordinate officer dismissed under this section may appeal to the Inspector General, whose orders on such appeal shall be final.

CHAPTER III.

Duties of Officers.

Generally.

10. All officers of a prison shall obey the directions of the superintendent : all subordinate officers shall perform such duties as may be directed by the gaoler with the sanction of the superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by him. Officers to obey superintendent.

11. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner. Officers not to sell or let to prisoners.

12. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison : nor, except so far as is expressly allowed by rules made Officers not to contract with prisoners

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[a] Words repealed by Act XII of 1891 are omitted.

nor to benefit by sales.

under section 54, shall he derive any benefit, directly or indirectly, from the sale of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Duties of superintendent.

13. Subject to the orders of the Inspector General of Prisons, the superintendent shall—

manage the prison in all matters relating to discipline, labour, expenditure, punishment and control :

correspond on all matters connected with the prison with and through the Inspector General :

submit to the Inspector General all bills of prison expenditure with proper vouchers for audit :

report to the Inspector General from time to time, as they occur, all escapes and recaptures, and all outbreaks of epidemic disease :

send to the Inspector General returns of all prisoners sentenced to transportation :

periodically inspect all property of the Government in his charge, and report thereon to the Inspector General :

and, generally, obey all rules made under section 54 for the guidance of the superintendent.

The superintendent shall also obey all orders respecting the prison given by the Magistrate of the district, or the Deputy Commissioner, as the case may be, and shall report to the Inspector General all such orders and the action taken thereon.

Medical Officer.

Power to make rules as to medical officer's duties.

14. The Local Government shall make rules as to each of the following matters :—

how often the medical officer shall visit the prison and see each prisoner :

the records to be made respecting sick prisoners :

periodical inspection of every part of the prison :

reports on its cleanliness, drainage, warmth and ventilation :

reports on the provisions, water, clothing and bedding supplied to the prisoners.

Medical officer to obey such rules;

The medical officer shall obey such rules.

to report special cases;

15. Whenever the medical officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the medical officer shall report the case in writing

to the superintendent, together with such directions as the medical officer thinks proper.

16. On the death of any prisoner, the medical officer shall forthwith record in writing the following particulars, namely:— to make entries as to death of prisoners.

when the deceased was taken ill,

when the medical officer was first informed of the illness,

the nature of the disease,

when the prisoner died,

and (in cases where a *post-mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the medical officer to be required.

17. Where a deputy medical officer is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made hereunder, to be performed by the medical officer. Deputy medical officer.

When there is no deputy medical officer, or when his services are not available by reason of sickness or other cause, the Local Government may, by general or special order, appoint a subordinate medical officer to act as a substitute for the medical officer, and the subordinate medical officer so appointed shall perform all the duties of the medical officer. Subordinate medical officer.

Gaoler.

18. The gaoler shall reside in the prison, unless the superintendent permits him in writing to reside elsewhere. The gaoler shall not, without the Inspector General's sanction, be concerned in any other employment. Residence of gaoler.

19. The gaoler shall deliver to the medical officer daily a list of such prisoners as are confined in punishment-cells. Gaoler to deliver list of prisoners confined in punishment-cells;

20. Upon the death of a prisoner, the gaoler shall give immediate notice thereof to the superintendent. to give notice of death of prisoners;

21. The gaoler shall keep, or cause to be kept, the following records:— to keep enumerated books and accounts.

(1) a register of warrants;

(2) a book showing when each prisoner is to be released;

(3) a punishment-book for the entry of the punishments inflicted for prison-offences;

(4) a visitors' book for the entry of any observations made by visitors to the prison;

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules made under section 54.

Gaoler responsible for safe custody of documents;

22. The gaoler shall be responsible for the safe custody of the records to be kept by him under section 21, and also for the commitments and all other documents confided to his care.

not to be absent without leave.

23. The gaoler shall not be absent from the prison for a night without permission in writing from the superintendent; but if absent without leave for a night from unavoidable necessity he shall report the fact and the cause of it to the superintendent.

Deputy gaoler.

24. Where a deputy gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act or by any rule made under section 54 to be performed by the gaoler.

Where there is no deputy gaoler, or where his services are not available by reason of sickness or other cause, the superintendent shall, when the gaoler is absent from the prison or temporarily incapacitated, appoint an officer of the prison to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the gaoler.

Subordinate Officers.

Powers of gate-porter.

25. The officer acting as gate-porter, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and, if any such articles or property be found, shall give immediate notice thereof to the gaoler.

Subordinate officers not to be absent without leave.

26. Subordinate officers shall not be absent from the prison without leave from the superintendent, or from the gaoler, and before absenting themselves they shall leave their keys in the gaoler's office.

CHAPTER IV.

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

Prisoners to be searched on entrance.

27. When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Every criminal prisoner shall also, as soon as possible after admission, be examined by the medical officer, who shall enter in a book to be kept by the gaoler a record of the state of the prisoner's health, and any observations which the medical officer thinks fit to add.

Medical examination of criminal prisoners.

28. All money or other effects in respect whereof no order of a competent Court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the gaoler.

Effects of criminal prisoners retained.

29. All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

No prisoner shall be removed to any other prison unless the medical officer certifies that the prisoner is free from any illness rendering him unfit for removal.

No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the medical officer, such discharge is safe.

Medical examination before removal and discharge of prisoners.

CHAPTER V.

Discipline of Prisoners.

30. The requisitions of this Act, with respect to the separation of prisoners, are as follows:—

Requisitions of Act as to separation of prisoners.

(1) In a prison containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the men.

(2) In a prison where children under twelve years of age are confined, means shall be provided for separating them altogether from the other prisoners.

(3) Criminal prisoners before trial shall be kept apart from convicted prisoners.

(4) Civil prisoners shall be kept apart from criminal prisoners.

31. The Local Government shall have power to make rules—

Rules as to separate confinement.

(1) as to what cells only shall be used for the separate confinement of prisoners:

(2) as to the time during which prisoners not guilty of offences against prison-rules may be confined separately.

(Chap. V.—Discipline of Prisoners. Secs. 32-33. Chap. VI.—Food, Clothing and Bedding of Prisoners. Secs. 34-36. Chap. VII.—Employment of Prisoners. Sec. 37.)

Cells to be furnished with means of communication.

32. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison.

Prisoners under sentence of death.

33. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the gaoler, and all articles shall be taken from him which the gaoler deems it dangerous or inexpedient to leave in his possession.

Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

CHAPTER VI.

Food, Clothing and Bedding of Prisoners.

Civil prisoner may maintain himself.

34. A civil prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

Civil prisoner not to sell provisions.

35. No part of any food, clothing, bedding or other necessaries belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources, for such time as the superintendent thinks proper.

Allowance for clothing and bedding.

36. Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the superintendent with such clothing and bedding as may be necessary.

Judgment-creditor to defray such allowance.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

CHAPTER VII.

Employment of Prisoners.

Work and earnings of civil prisoners.

37. Civil prisoners may, with the superintendent's permission, work and follow their respective trades and professions.

Civil prisoners finding their own implements and not maintained at the expense of the prison shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the superintendent, for the use of implements and the cost of maintenance.

38. The medical officer shall, from time to time, examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance at hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment.

Examination by medical officer of labouring prisoners.

But, if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the gaoler so to employ him.

39. Provision shall be made by the superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.

Employment of prisoners sentenced to simple imprisonment.

The superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

CHAPTER VIII.

Health of Prisoners.

40. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the gaoler.

Names of sick prisoners to be reported to gaoler.

The gaoler shall, without delay, call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention,

Gaoler to report them to medical officer.

and shall carry into effect the medical officer's written directions respecting alterations of the discipline or treatment of any such prisoner.

41. All directions given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating

Entry of directions by medical officer.

to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column wherein entries shall be made by the gaoler, stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the gaoler thinks fit to make, and the date of the entry.

Infirmaries.

42. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

Visits to, and Correspondence of, Prisoners.

Visits to prisoners.

43. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom prisoners before trial may desire to communicate.

Correspondence of prisoners.

The Local Government shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline.

Powers of gaoler as to visitors.

44. The gaoler may demand the name and address of any visitor to a prisoner, and, when the gaoler has any ground for suspicion, may search visitors, or cause them to be searched; but the search shall not be in the presence of any prisoner or of another visitor.

In case of any such visitor refusing to be searched, the gaoler may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in his journal.

CHAPTER X.

Offences in Relation to Prisons.

Carrying liquor, tobacco or drugs into prison;

45. Whoever, contrary to the regulations of the prison, brings, throws or attempts by any means whatever to introduce into any prison, or any place provided under section 5 for the temporary shelter and safe custody of prisoners, any spirituous or fermented liquor, or tobacco, or intoxicating or poisonous drug,

and every officer of a prison who knowingly suffers any such liquor, tobacco or drug to be sold or used in such prison or place contrary to such regulations, — suffering liquor, tobacco or drugs to be sold or used in prison;

and whoever, contrary to such regulations, conveys, or attempts to convey, any letter or other article not allowed by such regulations, into or out of any such prison or place, — carrying letters into and out of prison;

XLV of 1860. and whoever abets within the meaning of the Indian Penal Code[a] any offence made punishable by this section, — abetment of such offences.

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

46. The superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice setting forth the penalties incurred by persons committing any offence under section 45. — Notice of penalties to be placed outside prison.

CHAPTER XI.

PRISON-OFFENCES.

47. The following acts are declared to be offences against prison discipline:— — List of prison-offences.

(1) wilful disobedience to the regulations of the prison by any prisoner;

(2) assault[b] or use of criminal force by any prisoner;

(3) insulting or threatening language by any prisoner to any officer or prisoner;

(4) indecent or disorderly behaviour by any prisoner;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing or cutting irons or bars;

(8) idleness or negligence at work by any convicted criminal prisoner;

(9) wilful mismanagement of work by any convicted criminal prisoner;

(10) wilful damage to prison-property;

(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

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[a] See Act XLV of 1860, Chap. V. (For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.)

[b] The word "assault" was substituted for the original word by Act XII of 1891.

Superintendent's power to punish prison offenders.

48. The superintendent may examine any person touching such offences, and determine thereupon, and punish such offences—

(1) by imprisoning the offender in solitary confinement for any time not exceeding seven days;

(2) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the Local Government shall prescribe;

(3) by corporal punishment[a] not exceeding thirty stripes of a ratan; or

(4) where the offender is not sentenced to rigorous imprisonment, by hard labour for any time not exceeding seven days.

The gaoler shall enter in a separate book, called the punishment-book, a statement of the nature of any offence that has been punished under this section, with the addition of the name of the offender, the date of the offence and the amount of punishment inflicted. Such statement shall be signed by the superintendent.

Punishment of prisoners by Magistrate.

49. If any prisoner is guilty of repeated offences against prison-discipline, or is guilty of any offence against prison-discipline which the superintendent thinks is not adequately punishable under section 48, the superintendent shall report the same to the Magistrate of the district or any Magistrate empowered to receive complaints without reference by the Magistrate of the district.

Such Magistrate shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to sentence the offender to be punished—

by confinement in a punishment-cell or in irons[a] for any term not exceeding six months,

or by corporal punishment[a] not exceeding thirty stripes of a ratan,

or by rigorous imprisonment for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment.

Nothing in this or the last preceding section shall authorize the infliction of corporal punishment, or confinement in irons, on any female prisoner or any civil prisoner.

Corporal punishment.

50. All corporal punishment within the prison shall be inflicted in the presence of the superintendent, subject to the law[b] for the time being in force relating to the infliction of corporal punishment and the precautions to be taken in reference thereto.

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[a] As to females and civil prisoners, see exception in s. 49, last para.

[b] See now Act X of 1882, ss. 390 to 395. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

51. Every gaoler and subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any rule contained in this Act or made under section 54, shall be liable, on conviction before the superintendent, to fine not exceeding one hundred rupees, or, on conviction before a Magistrate not being the superintendent, to fine not exceeding two hundred rupees, or rigorous imprisonment for a term not exceeding one month, or both.

Penalty on officers ill-treating prisoners or violating rules.

Any fine imposed by the superintendent under this section may be recovered, either by deductions from the convicted officer's salary and allowances, or under the law[a] for the time being in force for the recovery of fines.

No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

52. Whenever the superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, the superintendent may so confine them.

Confinement in irons of prisoners sentenced to rigorous imprisonment.

53. Except in case of urgent necessity, no prisoner shall be put in irons or under mechanical restraint by the gaoler of his own authority, and notice thereof shall be forthwith given to the superintendent.

Confinement in irons by gaoler of his own authority.

Except in case of urgent necessity, no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours, without an order in writing from the superintendent specifying the cause thereof, and the time during which the prisoner is to be kept in irons or under mechanical restraint. Such order shall be kept by the gaoler as his warrant.

54. The Local Government may, from time to time, make rules consistent with this Act—

Power to make supplementary prison-rules.

(1) for the government of prisons and for the guidance of all officers appointed hereunder:

(2) as to sales of articles on behalf of prisons or belonging to prisoners, and as to the commission receivable thereon:

(3) as to the food and clothing of criminal prisoners:

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[a] See Act I of 1868, s. 5, in General Acts, 1867-76, Ed 1887, p. 19.

(4) for the employment and control of convicts within or without prisons, and for the guidance of the guards in charge of such convicts:

(5) for remission of sentences:

(6) for rewards for good conduct; and

(7) for the appointment and guidance of visitors of prisons.

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.

Present rules.

55. All rules now in force relating to any of the matters mentioned in sections 14, 31, 39 and 54 shall, so far as such rules are consistent with this Act, be deemed to have been made under those sections respectively.

Exercise of powers of superintendent.

56. All or any of the powers and duties conferred and imposed by this Act on a superintendent may be exercised and performed by such other officer as the Local Government from time to time appoints in this behalf.

SCHEDULE.

[*Enactments repealed.*] *Repealed by Act XII of 1873.*

THE N. W. P. AND OUDH MUNICIPALITIES ACT, 1873.

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ACT No. XV OF 1873.[a]

(*Received the Governor General's assent on the 21st November, 1873.*)

An Act to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for other purposes.

WHEREAS it is expedient to make better provision for the appointment of municipal committees in the North-Western Provinces and Oudh, and for the police, conservancy and local improvements, and for education, and for the levying of rates and taxes, in the places to which this Act may be extended; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the North-Western Provinces and Oudh Municipalities Act, 1873: Short title.

It extends to the territories for the time being respectively under the government of the Lieutenant-Governor of the North-Western Provinces and under the administration of the Chief Commissioner of Oudh. Local extent.

[*Commencement.*] *Repealed by Act XVI of 1874.*

2. Acts Nos. XVIII of 1864 (*to provide for the appointment of a Municipal Committee for the City of Lucknow*), XXII of 1865 (*to amend Act No. XVIII of 1864*), XV of 1867 (*to make better provision for the appointment of Municipal Committees in the Punjab, and for other purposes*), and VI of 1868, (*to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes*) are repealed. Repeal of enactments.

But all extensions and appointments made, and all limits defined, under any of the said Acts, shall be deemed to be respectively made and defined under this Act.

And all assessments, bye-laws, rules and regulations of any kind relating to matters provided for by this Act, which may heretofore have been made and approved by the Local Government, shall be deemed to have been made under this Act.

And all proceedings taken under any such assessment, bye-law, rule or regulation shall be deemed to be as valid as if they had been taken under this Act.

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[a] Act XV of 1873, except ss. 34 and 35, was extended to Coorg by notification under the Scheduled Districts Act, 1874—see Appendix, p. 169.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context—

"committee" means a municipal committee appointed under the provisions of this Act; and

"municipality" means any town or towns to which this Act may be extended.

Power to extend Act.

4. The Local Government may, by notification published in the local official Gazette, declare its intention to extend this Act, or any of its provisions, to any town or towns in the territories under such Government.

Any inhabitant of such town objecting to such extension may, within six weeks from the date of the said publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration.

When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in its opinion, they are insufficient, may, by like notification, effect the proposed extension.

Power to define limits of places to which Act extends.

5. For the purposes of this Act, the Local Government may from time to time, by notification in the local official Gazette, define the limits of any town, and may include within the limits of such town any railway-station, village, building or land in the vicinity:

Provided that no cantonment shall, without the previous consent of the Governor General in Council, be included within the limits of any town for the purposes of this Act.

The Local Government may from time to time, by notification in the local official Gazette, declare to be united for the purposes of this Act any two or more towns, and may also declare by what name the municipality so formed shall be designated.

CHAPTER II.

Appointment of Municipal Committees.

Appointment of committees.

6. In any municipality to which this Act shall have been extended, the Local Government may appoint or direct to be appointed by election, for such period, not exceeding two years, as to it may seem fit, any number of the inhabitants of, or of persons possessing property or carrying on any trade or

business in, such municipality, to be members of a committee for carrying out the purposes of the Act.

The persons so appointed shall continue in office for two years, or until their successors shall have been appointed, and shall be eligible for re-appointment.

In cases where the Local Government directs the appointment to be by election, it may fix the time and manner of the election and the qualifications of the electors, and of the candidates for office, and, generally, may make such rules as it thinks fit for regulating the election.

Removal of members.

7. The Local Government may, from time to time, remove any of the members of the committee so appointed who desire to be discharged, or refuse or become incapable to act, or are convicted of an offence punishable under the Indian Penal Code[a] with imprisonment for a term of not less than six months.

XLV of 1860.

Addition of members.

8. The Local Government may also fill up vacancies occurring among the members of the committee, and may, if it think fit, on the recommendation of the committee, add to their number.

Every member so appointed shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for re-appointment, as if he had been originally appointed a member under section 6.

Ex-officio members.

9. In addition to the members appointed as aforesaid, the Local Government shall have power to appoint *ex-officio* members of the committee for every place in which they exercise their offices and to which this Act shall have been extended:

Provided that the number of such *ex-officio* members shall not be more than one-third of the total number of the committee.

Appointment of president and vice-president.

10. The Local Government may also appoint the president and vice-president, or either of them, of any committee, or sanction the election by any committee of one of their members as president or as vice-president.

Appointment of secretary.

The committee may appoint any one of their members or any other person to be their secretary.

Notification of appointments and removals of members.

11. All appointments and removals of members of a committee, made under this chapter, shall be notified in the local official Gazette.

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[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

CHAPTER III.

Office and Meetings of Committees.

Committee to have an office.

12. The committee shall have an office, where they shall meet for the transaction of business at least once in every month.

Rules as to meetings.

13. (*a*) The president, or, in his absence, the vice-president, shall take the chair at every meeting of the committee. In the absence of both the president and vice-president, the members present may elect a chairman for the occasion.

(*b*) The meetings shall be either general or special.

(*c*) The president or vice-president may, whenever he thinks fit, and he shall, upon a requisition made in writing by not less than one-fifth in number of the members, convene a meeting.

(*d*) Notice shall be given of every such meeting, and, when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state generally the nature of the business to be transacted at the meeting proposed to be called.

(*e*) The quorum necessary for the transaction of business at a general meeting shall be three.

(*f*) The quorum necessary for the transaction of business at a special meeting shall be one-half of the total number of the members of the committee at the time of the meeting; and at least two-thirds of such quorum shall consist of non-official members.

(*g*) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if summoned by the president or vice-president, shall be dissolved.

In any other case it shall stand adjourned to the same day in the next week at the same time and place. And if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

(*h*) All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting.

(*i*) All questions which may come before the committee at any meetings shall be decided by a majority of votes. Every member shall have one vote. In case of equality of votes, the chairman shall have a second or casting vote.

(*j*) Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local English or vernacular newspaper (if any), or in such other manner as the Local Government may from time to time direct.

14. All correspondence between the committee and the Local Government shall pass through the Commissioner of the division.

Correspondence between committee and Local Government.

The Commissioner of the division shall be entitled to make such suggestions for the consideration of the committee as he may deem fit; and the committee shall furnish him with any information he may call for connected with the duties imposed upon them by this Act.

CHAPTER IV.

Powers of Committees.

15. Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf,

Power to make assessments and levy taxes.

every committee intending to impose taxes for the purposes of this Act shall from time to time give notice of such intention, and shall in such notice define the persons or property within the municipality to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed hereunder.

Any inhabitant of such town objecting to such notice may, within a fortnight from the date of the said notice, send his objection in writing to the chairman of the committee, and the committee shall take such objection into consideration and report their opinion thereon to the Local Government.

When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in the opinion of the committee, they are insufficient, the committee may, with the previous sanction of the Local Government, to be notified in the official Gazette, define the persons or property to be taxed and the amount or rate of the taxes aforesaid, and may then at a special meeting impose such taxes accordingly.

The committee may, at a special meeting, with the same sanction, cancel or vary any tax so imposed.

16. Such taxes may (subject to the rules or orders last aforesaid) be all or any of the following:—

Specification of taxes.

(*a*) a tax on houses, buildings and lands according to the annual value thereof, not exceeding seven and a half per cent. of such value:

(*b*) a tax on professions and trades:

(*c*) taxes on carriages, horses, mules, elephants, camels, bullocks and asses:

(*d*) tolls on carriages, carts and animals entering the limits of the municipality:

(*e*) an octroi on articles brought within the said limits for consumption or use therein: Provided that a list of such articles shall have been submitted to and approved by the Local Government: Provided also that the Local Government may exempt from the octroi any such articles intended for consumption or use by any class of persons or animals.

Imposition of other taxes.

17. If the committee desire to impose any other or further tax than such as are hereinbefore specified, they may do so with the previous sanction of the Local Government and of the Governor General in Council, and subject to the provisions of section 15.

Taxes to be confirmed.

18. No tax shall be collected until the assessment thereof has been confirmed by such persons and in such manner as the Local Government appoints in this behalf.

Rules for confirmation and collection of taxes.

The Local Government may, from time to time, make rules as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed, and for the collection of such taxes.

The Local Government may, from time to time, repeal, alter or add to such rules.

No tax or rate invalid for defect of form.

19. No tax, or toll, or rate on property, made under this Act shall be invalid for defect of form; and it shall be enough, in any such rate on property, or any assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Bye-laws and Rules.

Power of committees to make bye-laws.

20. Every committee may at a special meeting make bye-laws consistent with this Act, for regulating the time and place of their meeting, the conduct of their business, the division of duties among the members of the committee, the salaries, appointment, suspension and removal of the officers and servants of the committee, and other similar matters.

Enforcement of bye-laws and rules.

21. The committee may appoint one or more of their number to carry out their resolutions, and to enforce the bye-laws and rules made, under the provisions of this Act, for the protection of the public health; or they may appoint a special officer for such purposes.

Power to make rules as to nuisances,

22. The committee may at a special meeting make rules—

for declaring what acts or omissions within the municipality shall be considered to be public nuisances;

for defining the cases, manner and time in and at which the officers of the committee may enter upon private property for the detection and abatement of nuisances;

hire of carriages, and registration of births, marriages and deaths.

for determining the rates of hire of carriages, carts and boats plying for hire within the limits of the municipality;

for securing a proper registration of births, marriages and deaths;

and for carrying out all or any of the purposes of this Act.

The committee may from time to time, at a special meeting, repeal, alter or add to such rules.

Confirmation of rules.

23. No rule, and no alteration or repeal of, or addition to, a rule, made under this Act, shall have effect until it has been confirmed by the Local Government.

Publication of rules and bye-laws.

24. All bye-laws and rules made under this Act, and all alterations and repeals of, and additions to, such bye-laws and rules shall be published for such length of time and in such manner as the Local Government from time to time directs.

Nuisances.

Power to prohibit repetition or continuance of nuisances.

25. Every committee may enjoin within the limits of the municipality any person not to repeat or continue a public nuisance.

Every such injunction shall be deemed to have been made by a public servant.

Power to remove nuisances.

26. Every committee which the Local Government authorizes in this behalf may, so long as such authorization continues, exercise the powers of a Magistrate of a district as described in section 133[a] of the Code of Criminal Procedure, 1882, for the removal of nuisances; and in the exercise of such powers shall follow the procedure prescribed in sections 133[a] to 142[a] (both inclusive) of the same Code.

X of 1882.

Purchase and Sale of Land.

Power to buy and sell land for purposes of Act.

27. Any committee may, at a special meeting, and with the previous sanction of the Local Government, purchase land for the purposes of this Act, and may at a like meeting and with the like sanction, sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the president and two of the members of the committee.

Receipts.

The receipt of the president and any two members of the committee for any moneys paid to them upon any such sale shall effectually discharge the

[a] The references to s. 521 and ss. 521 to 528, respectively, of Act X of 1872 are altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

persons paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or misapplication thereof; and the proceeds of any such sale shall be applied for the purposes of this Act.

Controlling Power of Local Government.

Cancellation and suspension of proceedings of committee.

28. The Local Government may by order cancel, suspend or limit any of the acts, proceedings, bye-laws or rules of any committee.

Conduct of litigation.

To every suit or other proceeding brought against a committee, the Local Government shall be made a party.

Abolition of taxes.

29. The Local Government may also abolish any tax which shall have been sanctioned under the provisions hereinbefore contained, but not so as to entitle any person to a refund of money paid in respect of such tax.

CHAPTER V.

RIGHTS, DUTIES AND LIABILITIES OF COMMITTEES.

Municipal Fund.

Municipal Fund.

30. All sums received by the committee of any municipality to which this Act extends,

and all fines levied under this Act, or under Act No. V of 1861 [a] (*for the regulation of Police*), on account of nuisances committed within the municipal limits,

and all receipts from property entrusted to and managed by the committee,

shall constitute a fund which shall be called the Municipal Fund of such municipality, and shall, together with all property which may become vested in such committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

Custody and disbursement of municipal fund.

31. The municipal fund shall, as a rule, be kept in the Government treasury of the district, or in the bank (if any) to which the Government treasury business shall have been made over.

But in places where there is no such treasury or bank, the said fund may, with the previous sanction of the Local Government, be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government in each case thinks sufficient.

[a] For Act V of 1861 see the revised edition, as modified up to 1st August, 1892, published by the Legislative Department.

No disbursement of the municipal fund, or any part thereof, shall be made except under the signature of the president or vice-president and one other member of the committee.

Duties and powers of committees.

32. Every committee, so far as the municipal fund at their disposal will permit, shall, after providing out of such fund for a police-establishment in the manner hereinafter mentioned, keep the public streets, roads, drains, tanks and water-courses of the municipality for which they are appointed clean and in repair,

and may cause such streets and roads or any of them to be watered and lighted,

and may construct and provide for the management of poor-houses, dispensaries, market-places and other works of general utility,

and, generally, may do all acts and things necessary for the purposes of conservancy and general utility within their municipality.

The committee may also make provision, by the establishment of new schools or the aiding of already existing schools, or otherwise, for the promotion of education in their municipality.

Contracts.

33. Every contract made on behalf of any committee in respect of any sum exceeding twenty rupees, or in respect of any property exceeding twenty rupees in value, shall be in writing, and shall be signed by the president or vice-president and at least two other members of the committee, of whom one shall be an *ex-officio* member. Unless so executed, it shall not be binding on the committee.

Municipal Police.

34 and 35.—*Omitted under Chief Commissioner's Notification No. 835, dated 14th June, 1882 (Appendix, p. 169).*

Annual Reports and Accounts.

Annual reports and accounts to be submitted.

36. Every committee shall annually, or oftener if directed by the Local Government to do so, submit reports of all works executed, or proceedings taken, by them under the authority of this Act, and also accounts of and relating to the municipal fund.

Such accounts shall be examined or audited in such manner as the Local Government from time to time prescribes.

The committee shall also submit, at such time and in such form as may be directed by the Local Government, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted,

be published in such manner as the Local Government from time to time directs.

Rules as to cost and class of works.

37. The Local Government may, from time to time, make rules consistent with this Act as to the cost and the class of works which the committee may execute, and the committee shall be legally bound to obey such rules.

Public Highways.

Right of committee in public highways.

38. All public highways in any municipality in which this Act is in force not specially reserved by Government, together with all erections thereon and all materials thereof, shall be vested in and belong to the committee.

Land required for Public Purposes.

Acquisition of land for municipal purposes.

39. When any land within the limits of any municipality to which this Act is extended is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the committee cannot agree with the owner for the purchase thereof, the Local Government, on the recommendation of the committee, may notify in the local official Gazette that such land is required under the provisions of the Land Acquisition Act, 1870; [a]

and, on payment by the committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Suits by and against Committees.

Suits by and against committees.

40. Every committee shall sue and be sued in the name of their president.

Members not personally liable for contracts made by committee.

41. No member of a committee shall be personally liable for any contract made or expense incurred by or on behalf of the committee, but the funds from time to time in the hands of the committee shall be liable for and chargeable with all contracts made in the manner above provided for.

Liability of members for breach of trust.

42. Every member of a committee shall be liable for any misapplication of money entrusted to the committee to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty; and he shall be liable to be sued for the same in such Court as the Local Government directs as for money due to Government.

Notice previous to suing

43. No suit shall be brought against the committee or any of their officers, or any person acting under their direction, for anything done under this Act,

[a] Printed, General Acts, 1867-76, Ed. 1887, p. 177.

until the expiration of one month next after notice in writing has been delivered or left at the office of the committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff. committee or their officers.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the cause of suit, and not afterwards. Limitation.

If any person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover. Tender of amends.

CHAPTER VI.

Penalties and Prosecutions and Recovery of Taxes.

44. No member of a committee, or servant of a committee, shall be interested directly or indirectly in any contract made with the committee; and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred rupees: Penalty on member or servant of committee being interested in contracts made with committee.

Provided that no person shall by reason of being a shareholder in or member of any incorporated or registered company be deemed interested in any contract entered into between such company and the committee.

45. Whoever infringes any rule made by a committee and confirmed as directed in this Act shall be liable to a fine not exceeding fifty rupees, and, in the case of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the committee of such infringement. Penalty for infringement of rules or non-payment of fines.

In default of payment of any fine imposed under this section, the defaulter shall, in the case of a continuing infringement, be liable to imprisonment for a term not exceeding one month; and in any other case, to imprisonment for a term not exceeding eight days.

46. Prosecutions under this Act for infringements of rules may be instituted before any Magistrate by the committee or any person authorized by the committee in this behalf. Prosecutions.

47. All arrears of taxes imposed under this Act may be recovered as if they were fines, in the manner prescribed in sections 386, 387 and 389 of the Code of Criminal Procedure, 1882.[a] Recovery of taxes. X of 1882.

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[a] The reference to s. 307 of Act X of 1872 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

THE NORTHERN INDIA FERRIES ACT, 1878.

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ACT No. XVII OF 1878.[a]

(*Received the Governor General's assent on the 9th November, 1878.*)

An Act to regulate Ferries in Northern India.

WHEREAS it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh, the Central Provinces, Assam and Ajmere and Merwara; It is hereby enacted as follows :— Preamble.

I.—PRELIMINARY.

1. This Act may be called the Northern India Ferries Act, 1878. Short title.

[*Local extent; commencement.*] *Omitted under Chief Commissioner's Notification No 37, dated 5th June, 1886* (*Appendix, p. 170*).

2. [*Repeal of Bengal Regulation VI of 1891.*] *Omitted under Chief Commissioner's Notification No. 37, dated 5th June, 1886* (*Appendix, p. 170*).

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry. Interpretation-clause.

II.—PUBLIC FERRIES.

4. The Local Government may from time to time— Power to declare, establish, define and discontinue public ferries.

(*a*) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

(*b*) take possession of a private ferry and declare it to be a public ferry;

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[a] Act XVII of 1878, except the second and third paras. of s. 1, and ss. 2, 7A, 17 and 36, was extended to Coorg by notification under the Scheduled Districts Act, 1874—see Appendix, p. 170.

(*c*) establish new public ferries where, in its opinion, they are needed;

(*d*) define the limits of any public ferry;

(*e*) change the course of any public ferry; and

(*f*) discontinue any public ferry which it deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette:

Provided that, when a river lies between two provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor General in Council, by notification in the Gazette of India, and not otherwise:

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf.

Claims for compensation.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4 shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government.

Superintendence of public ferries.

6. The immediate superintendence of every public ferry shall, except as provided in section 7, be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf;

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Management may be vested in municipality;

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

and proceeds paid into municipal fund.

and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

7A. [*Management of public ferries by Local Boards, &c., in the Central Provinces, the N.-W. Provinces, Oudh and the Punjab.*] *Omitted under Chief Commissioner's Notification No. 37, dated 5th June, 1886* (*Appendix, p. 170*).

[a]8. The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years with the approval of the Commissioner, or by public auction, or otherwise than by public auction, for any term, with the previous sanction of the Local Government. Letting ferry-tolls.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 *or section 7A*,[b] then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue. Recovery of arrears from lessee.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease. Power to cancel lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct. Surrender of lease.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to Power to make rules.

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[a] This section was substituted for the original s. 8 by Act III of 1886, s. 1 (*1*), printed *infra*, p. 120.

[b] S. 7A does not apply to Coorg—see notification No. 37, dated 5th June, 1886, in Appendix, p. 170.

time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act—

(*a*) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries;

[a] (*b*) for regulating the time and manner at and in which, and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted;

(*c*) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(*d*) generally to carry out the purposes of this Act;

and, when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(*e*) for collecting the rents payable for the tolls of such ferries;

(*f*) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same, and

(*g*) in cases in which the traffic is conveyed in boats, for regulating—

(1) the number and kinds of such boats and their dimensions and equipment;

(2) the number of the crew to be kept by the lessee for each boat;

(3) the maintenance of such boats continually in good condition;

(4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and

(5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

Private ferry not to ply within two miles of public ferry without sanction.

13. [b] Except with the sanction of the Magistrate of the district, or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry: [b]

[a] This clause was substituted for the original cl. (*b*) by Act III of 1886, s. 1 (*2*), printed *infra*, p. 120.

[b.b] This paragraph was substituted for the original paragraph by Act III of 1886, s. 2 (*1*), printed *infra*, p. 120.

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats [a] which do not ply for hire or [a] which the Local Government expressly exempts from the operation of this section.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry. Person using approaches, &c., liable to pay.

15. Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service: Tolls.

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the lease, [b] shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry, Table of tolls.

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf. List of tolls.

17. [*Disposal of tolls, rents, compensation and fines.*] *Omitted under Chief Commissioner's notification No. 37, dated 5th June, 1886* (*Appendix, p. 170*).

[a-a] These words were inserted by Act III of 1886, s. 2 (*2*), printed *infra*, p. 120.
[b] The word "lease" was substituted for the original word by Act III of 1886, s. 1 (*3*), printed *infra*, p. 120.

Compounding for tolls.

18. The Local Government may, if it thinks fit, from time to time fix rates at which any person may compound for the tolls payable for the use of a public ferry.

III.—Private Ferries.

Power to make rules.

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the maintenance of order, and for the safety of passengers and property at ferries other than public ferries.

Tolls.

20. The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.

IV.—Penalties and Criminal Procedure.

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

21. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 16,

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized toll and for causing delay.

22. Every such lessee or person as aforesaid and any other person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under sections 12 and 19.

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Cancelment of lease on default, or breach of rules.

24. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections,

the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

25. Every person crossing by any public ferry, or using the approach to, or landing-place thereof, who refuses to pay the proper toll, and every person— Penalties on passengers offending.

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-boat, or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from, any such ferry-boat or bridge, on being requested by such toll-collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

[a]**26.** Whoever establishes, maintains or works a ferry in contravention of the provisions of section 13 shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions. Penalty for maintaining private ferry within prohibited limits.

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee. Fines payable to lessee.

28. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned. Penalty for rash navigation and stacking of timber.

29. The Police may arrest without warrant any person committing an offence against section 25 or section 28. Power to arrest without warrant.

30. Any Magistrate or Bench of Magistrates having summary jurisdiction Power to try summarily.

[a] This section was substituted for the original s. 26 by Act III of 1886, s. 2 (3), printed *infra*, p. 120.

under Chapter XXII[a] of the Code of Criminal Procedure, 1882, may try any offence against this Act in manner provided by that chapter. X of 1882.

Magistrate may assess damage done by offender.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or, when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

V.—Miscellaneous.

Power to take possession of boats, etc., on surrender or cancellation of lease.

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Similar power in cases of emergency.

33. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction of Civil Courts barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

Delegation of powers.

35. The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to

[a] The reference to Ch. XVIII of Act X of 1872 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888 published by the Legislative Department.)

any Commissioner of a division or Magistrate of a district, or to such other officer as it thinks fit, by name or by virtue of his office.

36. [*Validation of proceedings.*] *Omitted under Chief Commissioner's notification No. 37, dated 5th June, 1886* (*Appendix, page 170*). *Repealed by Act XII of 1891.*

THE HACKNEY-CARRIAGE ACT, 1879.

CONTENTS.

PREAMBLE.

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   Saving.
2. Interpretation-clause.
3. Application of Act to municipalities.
   Power of committees to make rules.
   Confirmation and publication of rules.
   Power of Local Government to rescind rules.
4. Power to make rules for cantonments.
5. Power to extend operation of rules beyond limits of municipality or cantonment.
6. What rules under sections 3 and 4 may provide for.
7. Penalty for breach of rules.
8. Disposal of fees and payment of expenses.
9. Power of Magistrate to decide disputes regarding fares.
10. In case of dispute, hirer may require driver to take him to Court.

ACT No. XIV OF 1879.

(*Received the Governor General's assent on the 5th September, 1879.*)

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:— Preamble.

1. This Act may be called the Hackney-carriage Act, 1879: and it shall come into force at once; Short title. Commencement.

Saving.

but nothing herein contained shall affect any power conferred by any law relating to municipalities,[a] or any rule made in exercise of any such power.

Interpretation-clause.

2. In this Act—

"hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies, for hire; and

"committee" means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment[a] for the time being in force.

Application of Act to municipalities.

3. The Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma,[b] Assam, Ajmere and Coorg, may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively.

Power of committees to make rules.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law[a] for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Confirmation and publication of rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe, have the force of law:

Power of Local Government to rescind rules.

Provided that the Local Government may, at any time, rescind any such rule.

Power to make rules for cantonments.

4. The Local Government of any of the said territories may, from time to time, subject to the control of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it.[c]

All rules made under this section, when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

Power to extend operation of rules beyond limits of municipality or cantonment.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned:

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[a] For the law relating to municipalities in Coorg, see Act XV of 1873, *supra*, p. 41.

[b] This reference to British Burma should now be read as referring to Lower Burma—see Act XX of 1886, s. 4, in Burma Code, Ed. 1889, p. 364.

[c] Portion repealed by Act XIII of 1889 is omitted.

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

What rules under sections 3 and 4 may provide for.

6. The rules to be made under section 3 or section 4 may, among other matters,—

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriages;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(*i*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed, affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges; and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and, in any cantonment where there is a cantonment-fund, to such fund.

Power of Magistrate to decide disputes regarding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.[a]

The decision of any Magistrate or bench in any case under this section shall be final.

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as

[a] As to recovery of fines see Act I of 1868, s. 5, in General Acts, 1867-76, Ed. 1887, p. 19.

differences of opinion arising between such members in the trial of criminal cases.

In case of dispute, hirer may require driver to take him to Court.

10. If, at the time any dispute mentioned in section 9 arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

THE GLANDERS AND FARCY ACT, 1879.

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4. Local Government to appoint Inspectors.
5. Inspector's power to seize horse.
6. Power of entry and search given to Inspectors.
7. Horse to be examined by Veterinary Surgeon.
8. Horse to be destroyed if found diseased; otherwise restored.
9. When horse diseased, place where it has been to be disinfected, etc.
10. Owner or person in charge of diseased horse to give notice.
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12. Vexatious entries, searches and seizures
13. Penalty for refusing to comply with notice under section 9; or removing horse contrary to section 11.
14. Power to make rules.
15. [*Repealed.*]

ACT No. XX OF 1879.

(*Received the Governor General's assent on the 14th November, 1879.*)

An Act to provide for the better prevention of Glanders and Farcy among Horses.

Preamble.

WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Glanders and Farcy Act, 1879.

Local extent.

It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council[a] and the Lieutenant-Governor of Bengal;

Commencement

and it shall come into force at once.

Interpretation-clause

2. In this Act, unless there is something repugnant in the subject or context,—

"horse" includes also ponies, asses, mules and jennets:

"diseased" means affected with glanders or farcy.

Local Government may apply the Act.

3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

Local Government to appoint Inspectors.

4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue of their office, such persons as it thinks fit to be Inspectors under this Act, and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code.[b] XLV of 1860.

Inspector's power to seize horse.

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal know-

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[a] The reference to Bombay, repealed by Act XXIV of 1886, is omitted.

[b] See Act XLV of 1860, s. 21. (For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.)

ledge or from information given by any person and taken down in writing, is diseased.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

Power of entry and search given to Inspectors.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

Horse to be examined by Veterinary Surgeon.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but, if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

Horse to be destroyed if found diseased; otherwise restored.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

When horse diseased, place where it has been to be disinfected, etc.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.[*]

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

Owner or person in charge of diseased horse to give notice.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

Prohibition against removal, without license, of horse which has been with diseased horse.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily

Vexatious entries, searches and seizures.

[*] As to recovery of fines, see Act I of 1868, s. 5, in General Acts, 1867-76, Ed 1887, p 19.

seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for refusing to comply with notice under section 9; or moving horse contrary to section 11.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section 9, or who moves any horse in contravention of section 11, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Power to make rules.

14. The Local Government may, from time to time, make rules, consistent with this Act,—

(*a*) for regulating entries and searches by Inspectors under this Act;

(*b*) for regulating the destruction of horses certified under section 8 to be diseased, and the disposal of the carcasses of such horses;

(*c*) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(*d*) for regulating the grant of licenses under section 11, and the conditions on which such licenses shall be granted; and,

(*e*) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

15. [*Validation of destruction of diseased horses previous to passing of this Act.*] *Repealed by Act XII of 1891.*

THE VACCINATION ACT, 1880.

CONTENTS.

PREAMBLE.

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1. Short title.
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SECTIONS.

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3. Extension of Act to municipalities.
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5. Power to withdraw local area from operation of Act.
6. Prohibition of inoculation.
Inoculated persons not to enter without certificate local area subject to Act.
7. Vaccination-circles :
Vaccinators :
Superintendent of vaccination.
8. Private vaccinators.
9. Unprotected children to be vaccinated.
Vaccinator to vaccinate children, or deliver certificates of postponement.
10. Inspection after vaccination.
11. Procedure when vaccination is successful.
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15. What lymph to be used.
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17. Duties of Superintendent of vaccination.
Notice to parent or guardian neglecting to comply with Act.
18. Order by Magistrate when notice not complied with.
Procedure when order not obeyed.
Magistrates to be non-official Natives.
19. Power to make rules for municipalities.
20. Power to make rules for cantonments.
21. What rules under sections 19 and 20 may provide for.
22. Punishment of offences.
23. Municipal funds to receive fines and meet expenditure.

ACT No. XIII OF 1880.

(*Received the Governor General's assent on the 9th July, 1880.*)

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory, in certain municipalities and cantonments; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Vaccination Act, 1880 : and Short title.

Application.

it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma,[a] Assam, Ajmere and Coorg as it may be extended to in manner hereinafter[b] provided.

Interpretation-clause.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) the expression "municipal commissioners" means a body of municipal Commissioners or a municipal committee constituted under the provisions of any enactment[c] for the time being in force:

(2) "parent" means the father of a legitimate child and the mother of an illegitimate child:

(3) "guardian" includes any person who has accepted or assumed the care or custody of any child:

(4) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination:

(5) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter:

(6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination:

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation; and includes a "Superintendent of vaccination":

(8) "vaccination-season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

Extension of Act to municipalities.

3. A majority in number of the persons present at a meeting of the municipal commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality, and thereupon the Local Government may, if it thinks fit, by notification published

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[a] This reference to British Burma should now be read as referring to Lower Burma—see Act XX of 1886, s. 4, in Burma Code, Ed. 1889, p. 364.

[b] See ss. 3 and 4.

[c] For the law relating to municipalities in Coorg, see Act XV of 1873, *supra*, p. 41.

in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification effect the proposed extension.

Extension to cantonments.

4. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.

Power to withdraw local area from operation of Act.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality, or, with the previous sanction of the Governor General in Council, any local area in a cantonment, from the operation of this Act.

Prohibition of inoculation.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Inoculated persons not to enter, without certificate, local area subject to Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles:

7. Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles;

Vaccinators:

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

Superintendent of vaccination.

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators.

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the

expiration of such period attained the age if a boy of fourteen years, and if girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Vaccinator to vaccinate children, or deliver certificates of postponement.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Inspection after vaccination.

10. The parent or guardian of every child which has been vaccinated under section 9 shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Procedure when vaccination is successful.

11. When it is ascertained at the time of inspecting a child under section 10 that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure when vaccination is unsuccessful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

Procedure when child is unfit for vaccination.

13. A certificate granted under section 9 showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator:

Renewal of postponement certificates.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section 9 shall be renewed.

Certificate of insusceptibility of successful vaccination.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act : What lymph to be used.

Provided that,—

1st, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

2nd, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act: No fee to be charged except by private vaccinator.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed. Proviso.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice. Duties of Superintendent of vaccination. Notice to parent or guardian neglecting to comply with Act.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the district, or such Magistrate as the Local Government or the Magistrate of the district may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order. Order by Magistrate when notice not complied with.

If on such date the order has not been obeyed, the Magistrate shall sum- Procedure

when order not obeyed.

mon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section 22.

Magistrates to be non-official Natives.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Power to make rules for municipalities.

19. When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law[a] for the time being in force, the Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the Local Government and published in the official Gazette, have the force of law:

Provided that the Local Government may at any time rescind or modify any such rule.

Power to make rules for cantonments.

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor General in Council, make such rules.

What rules under sections 19 and 20 may provide for.

21. The rules to be made for any local area under sections 19 or 20 may, among other matters, provide for—

(*a*) the division of such local area into circles for the performance of vaccination;

(*b*) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station;

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination;

(*d*) the authority with which their appointment, suspension and dismissal shall rest;

(*e*) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles;

(*f*) the distinguishing mark or badge to be worn by them;

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties;

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses;

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[a] For the law relating to municipalities in Coorg, see Act XV of 1873, *supra*, p. 41.

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination;

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph;

(*k*) the fee to be paid for vaccination with animal-lymph under section 15;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls;

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month;

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(*n*) the assistance to be given by the municipal commissioners and municipal servants in the preparation of these registers, and in other matters; and

(*o*) the preparation of vaccination-reports and returns.

Punishment of offences.

22. Whoever commits any of the undermentioned offences (that is to say):—

(*a*) violates the provisions of section 6,

(*b*) neglects without just excuse to obey an order made under section 18,

(*c*) breaks any of the rules made under section 19 or 20, or

(*d*) neglects without just cause to obey an order made under section 18 after having been previously convicted of so neglecting to obey a similar order made in respect of the same child, shall be punished as follows (that is to say):—

in the case of the offence mentioned in clause (*a*), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees; and

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal funds to receive fines and meet expenditure.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act, in any municipality shall respectively be credited to and paid from the municipal fund.

THE EXCISE ACT, 1881.

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ACT No. XXII OF 1881.

(*Received the Governor General's assent on the 26th October, 1881.*)

An Act to amend the law relating to the Excise-revenue in Northern India, British Burma,[a] and Coorg.

Preamble. Whereas it is expedient to amend the law in force in Northern India,

[a] This reference to British Burma should now be read as referring to Lower Burma—see Act XX of 1886, s. 4, in Burma Code, Ed. 1889, p. 364.

British Burma[a] and Coorg relating to the production, sale, possession and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Excise Act, 1881. **Short title.**

It extends to the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma,[a] Coorg, and Ajmere and Merwara ; and **Local extent.**

it shall come into force on the first day of January, 1882. **Commencement.**

X of 1871. 2. On and from that day the Excise Act, 1871, shall be repealed, but all rules made, powers conferred and licenses and farms granted under that Act and in force on the same day shall be deemed to have been respectively made, conferred and granted under this Act. **Repeal of Act X of 1871.**

3. In this Act— **Interpretation-clause.**

(*a*) " Chief Revenue-authority " means—

in the territories administered by the Lieutenant-Governor of the North-Western Provinces [b] and the Chief Commissioner of Oudh[b]—the Board of Revenue;

[c] in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burma[c]—the Financial Commissioner ; and

in the territories respectively administered by the Chief Commissioners of [d] the Central Provinces,[e] Coorg, and Ajmere and Merwara—the Chief Commissioner :

(*b*) " Collector " includes any Revenue-officer in independent charge of a district and any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Collector under this Act :

" Commissioner of Revenue " means any officer appointed by the Local

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[a] These references to British Burma should now be read as referring to Lower Burma—see Act XX of 1886, s. 4, in Burma Code, Ed. 1889, p. 364.

[b-b] These words were inserted by Act XX of 1890, s. 43 (*1*), printed, N.-W. P. & Oudh Code, Ed. 1892, p 75

[c-c] These words were substituted for the original words by Act XVIII of 1888, s. printed, Burma Code, Ed. 1889, p 76.

[d] The word repealed by Act XX of 1890, s. 43 (*1*), is omitted.

[e] Words repealed by Act XVIII of 1888, s. 7, are omitted.

Government to discharge, throughout any specified local area, the functions of a Commissioner of Revenue under this Act:

(*c*) "Magistrate" means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorized in this behalf by the Magistrate of the district:

(*d*) "place" includes also house, boat and raft:

(*e*) "tari" means the sap of any kind of palm-tree:

(*f*) "fermented liquor" means malt liquor, wine, pachwai and fermented tari, and, in any provision of this Act, shall, if the Local Government, subject to the control of the Governor General in Council, so directs, include any other fermented liquor, and also tari though it may not have perceptibly begun to ferment:

(*g*) "spirit" means any liquor containing alcohol obtained by distillation:

(*h*) the expression "intoxicating drugs" means ganja, bhang, charas, and every preparation and admixture of the same:

(*i*) "tola" means a weight of one hundred and eighty grains Troy:

(*j*) "ser" means a weight of eighty tolas:

(*k*) the articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles;

country spirit, one ser, and in Burma[a] one reputed quart bottle;

country fermented liquor, four sers, and in Burma[a] four reputed quart bottles;

bhang, or any preparation or admixture thereof, one quarter of a ser;

ganja or charas, or any preparation or admixture thereof, five tolas;

if sold in larger quantities they shall be deemed to be sold wholesale.

In any case in which doubt arises the Local Government may decide what for the purposes of this Act shall be deemed to be "country spirit," "country fermented liquor," "foreign spirit" and "foreign fermented liquor"; and such decision shall be binding on the Courts.

Saving of Acts XVI of 1863 and XIII of 1889.

4. Nothing herein contained shall affect Act No. XVI of 1863[b] (*to make special provision for the levy of the Excise-duty payable on Spirits used*

[a] "Burma" was substituted for "British Burma" by Act XVIII of 1889, s. 7, printed Burma Code, Ed. 1889, p 76.

[b] Printed, General Acts, 1834-66, Ed. 1887, p 382.

exclusively in Arts and Manufactures or in Chemistry) or the Cantonments Act, 1889[a].

XIII of 1889.

CHAPTER II.

Production of Spirit, Fermented Liquor and Intoxicating Drugs.

Manufacture of spirit and liquor without license prohibited.

5. No person shall construct, work or possess a distillery, still or brewery, or manufacture fermented liquor, in any district except under a license granted by the Collector or by a person authorised by the Collector to grant such license, and in accordance with the conditions (if any) contained therein.

Power to establish distilleries for country spirit.

6. The Collector may, with the previous sanction of the Chief Revenue-authority, from time to time,—

(*a*) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established;

(*b*) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

Duty on spirit.

7. No spirit shall be removed from any distillery licensed under section 5 or established under section 6 until—

[b] (*a*) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or

(*b*) a bond for such duty has been executed, or

(*c*) a duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct.

Duty on fermented liquor.

[c] **7A.** No fermented liquor shall be removed from a brewery licensed under section 5 until—

(*a*) duty has been paid thereon at the rate for the time being leviable under the Indian Tariff Act, 1882,[d] on like liquor imported by sea into any part of British India except Aden and Perim, or at such lower rate as the Local Government, having regard to the circum-

XI of 1882.

[a] The reference to Act III of 1880 is altered in accordance with Act XIII of 1889, s. 2 (3).

[b] This clause was substituted for the original clause (*a*) by Act IX of 1885, s. 2. The duty fixed before the 29th May, 1885, under s. 6 of the Indian Tariff Act, XI of 1882, is to be deemed to be the duty fixed by the Local Government under s. 7 of Act XXII of 1881—see Act IX of 1885, s. 4, in General Acts, 1885-88, Ed. 1889, p. 5.

[c] S. 7A was inserted by Act XIII of 1890, s. 2.

[d] For Act XI of 1882 see the revised edition, as modified up to 1st June, 1890, published by the Legislative Department.

stances of the brewery or of the local area in which the brewery is situate, may from time to time prescribe, or

(*b*) a bond for such duty has been executed.

Power to make rules as to distilleries and breweries licensed under section 5;

[a] 8. The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the granting of licenses for distilleries, stills and breweries under section 5;

(*b*) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work;

(*c*) the size and description of the stills in such distillery;

(*d*) the storing and passing out of the spirit made in such distillery, or of the fermented liquor made in such brewery, and the contents of the passes;

(*e*) the inspection and examination of such distillery or brewery and the warehouses connected therewith, and of the spirit or fermented liquor made and stored therein;

(*f*) the furnishing of statements of the spirit and the stills, coppers, casks and other utensils in such distillery, or of the fermented liquor, and the mashtuns, under-backs, wort-receivers, coppers, heating-tanks, coolers, and collecting, fermenting and other vessels in such brewery.

and for distilleries established under section 6.

9. The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the management of distilleries established under section 6, and in particular as to the conditions on which any materials to be used in making spirit may be brought into such distillery;

(*b*) the conditions on which spirit may be made in such distilleries; and

(*c*) the storing and passing out of the spirit so made, and the contents of the passes.

Sanction to rules under sections 8 and 9.

10. Except in the territories respectively administered by the Chief Commissioners of [b] the Central Provinces [c], Coorg, and Ajmere and Merwara, the sanction of the Local Government is required to validate rules under sections 8 and 9.

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[a] This section was substituted for the original s. 8 by Act XIII of 1890, s. 3.
[b] The word repealed by Act XX of 1890, s. 43 (2), is omitted.
[c] Words repealed by Act XVIII of 1888, s. 7 (printed, Burma Code, Ed. 1889, p. 76), are omitted.

11. In Burma[a] the cultivation of hemp and the preparation of intoxicating drugs therefrom are prohibited except under, and in accordance with, a license granted by such officer as the Chief Commissioner may from time to time appoint in this behalf. Production of intoxicating drugs.

In the other territories to which this Act extends, the Chief Revenue-authority may, from time to time, make such rules to restrict and regulate the cultivation of hemp and the preparation of intoxicating drugs therefrom as it may deem necessary to secure the duty leviable in respect of those drugs.

CHAPTER III.

Sale of Spirit, Fermented Liquor and Intoxicating Drugs.

12. No spirit, fermented liquor or intoxicating drug shall be sold, except under, and in accordance with the terms of, a license granted under the provisions hereinafter contained : Spirit, fermented liquor and drugs not to be sold without license.

Provided as follows :— Proviso.

(*a*) nothing in this section applies to the sale of any foreign spirit or foreign fermented liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease ;

(*b*) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district ;

(*c*) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules from time to time made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor ;

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[a] "Burma" was substituted for "British Burma" by Act XVIII of 1888, s. 7, printed, Burma Code, Ed. 1889, p. 76.

(*d*) any cultivator of the hemp plant may sell any intoxicating drug prepared from his plants to any person licensed under this Act to sell the same, or to any person authorised to purchase the same by the Collector's order in writing.

Licenses how granted.

13. Subject to the rules made by the [a] Chief Revenue-authority [a] under the power hereinafter conferred, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (except in Burma [b]) of intoxicating drugs, within his district or any part thereof or at any place therein.

Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, in Burma [b] of intoxicating drugs, retail, shall be granted only by such officer as the Local Government from time to time appoints in this behalf.

Power to cancel license for cause specified therein.

Any license granted under this section may be cancelled by the Collector for any cause specified therein.

Power to cancel license for other causes.

14. Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall, in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or Chief Revenue-authority directs.

On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license.

Surrender of retail license.

15. Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same, and on payment of such sum, not exceeding the amount of the license-fee for six months, as the Collector may fix in this behalf.

If the Collector is satisfied that there is a sufficient reason for surrendering a license, he may remit the sum so fixed.

[a-a] These words were substituted for the original words by Act XII of 1891.

[b] "Burma" was substituted for "British Burma" by Act XVIII of 1888, s. 7, printed, Burma Code, Ed. 1889, p. 76.

16. The Collector may, with the sanction of the Chief Revenue-authority, let in farm— Power to farm fees.

(*a*) the fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in Burma[a]) of intoxicating drugs:

(*b*) the right to manufacture, in any district or part of a district in which no distillery is established under section 6, country spirit or country fermented liquor.

When the fees so leviable or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue-authority, may from time to time make or impose, grant licenses for the retail sale, or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such day or days in each year as the Chief Revenue-authority may, from time to time, prescribe in this behalf. Farmer to grant licenses. List of licenses granted by farmer to be filed.

17. The Collector may, with the sanction of the Chief Revenue-authority, cancel any farm granted under this Act. Farm may be cancelled.

18. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine. Compensation to farmers in certain cases.

19. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants. Recovery of arrears by farmers.

20. The Chief Revenue-authority may, from time to time, make rules to regulate the mode in which tari shall be supplied to licensed vendors of the same, and the grant of licenses or passes to persons possessing or transporting intoxicating drugs for the supply of the licensed vendors of such drugs. Power to regulate supply of tari and intoxicating drugs to licensed vendors.

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[a] "Burma" was substituted for "British Burma" by Act XVIII of 1888, s. 7, printed, Burma Code, Ed. 1889, p. 76.

CHAPTER IV.

POSSESSION OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

Possession of spirit, etc.

21. No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, clause (*k*), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government to grant such passes.

Proviso.

Nothing in this section extends to—

(*a*) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouse-man as such, or purchased by any person for his private use and not for sale, or

(*b*) tari intended to be used for the manufacture of gur or molasses.

Possession of intoxicating drugs.

22. In Burma [a] no person shall have in his possession any intoxicating drugs except under, and in accordance with the terms of, a general exemption granted by the Chief Commissioner, or a license granted by such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

In the other territories to which this Act extends, no person shall have in his possession any larger quantity of such drugs than that specified in section 3, clause (*k*), in respect of such drugs, unless he is permitted to manufacture or sell the same.

CHAPTER V.

IMPORT OF SPIRIT [b] AND FERMENTED LIQUOR. [b]

Spirit and fermented liquor from foreign territory subject to duty.

[c]**23.** (*1*) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government, from time to time, appoints in this behalf, and has paid in respect thereof—

(*a*) if the Local Government has fixed a duty under clause (*a*) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

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[a] "Burma" was substituted for "British Burma" by Act XVIII of 1888, s. 7, printed, Burma Code, Ed. 1889, p. 76.

[b-b] These words were inserted by Act XII of 1891.

[c] This section was substituted for the original s. 23 by Act II of 1887, s. 5, printed, General Acts, 1885-88, Ed. 1889, p. 120.

(*b*) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government, from time to time, prescribes in this behalf not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(*2*) The provisions of sub-section (*1*) with respect to spirit shall apply to fermented liquor also, with this modification, that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882, [a] [b] or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (*a*) of section 7A, may from time to time prescribe. [b]

XI of 1882.

(*3*) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

CHAPTER VI.

Officers and their Powers.

Collectors may appoint Excise-officers.

24. The Collector may appoint persons, by name or by virtue of their office, to be officers for the collection of the excise-revenue and for the prevention of offences against this Act; and the officers so appointed shall, in addition to their ordinary designations (if any), be styled Excise-officers.

Recovery of arrears of fees.

25. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders or from farmers of land or their sureties.

Power of Excise-officers to inspect shops;

26. Any Excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit, or the sale of country spirit, country fermented liquor or intoxicating drugs.

to arrest persons carrying spirit, etc., liable to confiscation;

27. Any Excise-officer may stop and detain any person carrying any spirit fermented liquor or intoxicating drug liable to confiscation under this Act;

and may seize such spirit, liquor or drug, together with any vessels, packages or coverings in which it is contained, and any animals and conveyances used in carrying it;

[a] For Act XI of 1882 see the revised edition, as modified up to 1st June, 1890, published by the Legislative Department.

[b,b] This portion was added by Act XIII of 1890, s. 4.

and may also arrest the person in whose possession such spirit, liquor or drug is found.

to arrest persons in possession of article liable to confiscation, and to seize article;

28. Any Excise-officer in the receipt of a monthly salary of not less than ten rupees, [a]or who receives an annual remuneration equivalent to such salary,[a] may arrest any person having in his possession any article liable to confiscation under this Act, or engaged in the unlawful sale of any spirit, fermented liquor or intoxicating drug, and may seize such article, spirit, liquor or drug.

to search on information of illicit manufacture or possession.

29. Whenever any Excise-officer in receipt of such monthly salary [b]or annual remuneration[b] as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed,

such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees,[c] unless the Excise-officer is himself such an officer of Police,[c]) enter into such place,

and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article,

and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

Collector may issue warrant of arrest in certain cases.

30. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

Collector may issue search-warrant.

31. The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act is kept or concealed.

Such warrant may be executed by any Excise-officer in the receipt of a monthly salary of not less than ten rupees, at the time and in the manner prescribed in section 29.

[a-a] These words were inserted by Act VI of 1885, s. 1, printed *infra*, p. 119.
[b-b], [c-c] These words were inserted by Act VI of 1885, s. 2.

Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any Excise-officer as aforesaid in the manner prescribed in section 29, and shall cease to be in force at sunrise on the day next following. Special warrant authorizing search at night.

32. Whenever an Excise-officer arrests any person, or seizes any article liable to confiscation under this Act, Excise-officer to report arrest, etc ;

or enters any place for the purpose of searching for any such article,

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, seizure or search, to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested, or the article seized, with all convenient despatch to the Magistrate for trial or adjudication. and to take person arrested to Magistrate.

33. Whenever any person is arrested or any article is seized under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours thereafter, take the person arrested or the article seized to the Collector, and the Collector, after such enquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article. Procedure after arrest or seizure.

34. All Police-officers are required to aid the Excise-officers in the due execution of this Act, upon request made by such officers. Police to aid Excise-officers.

[*]**34A.** The Local Government may, from time to time, invest either by name or in virtue of his office— Power to invest Police-officers with powers of Excise-officers.

(*a*) any Police-officer with the powers conferred on Excise-officers by section 27 of this Act ;

(*b*) any Police-officer in charge of a station or any Police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 28 and 29 of this Act.

Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act.

CHAPTER VII.

PENALTIES.

35. Whoever in contravention of section 5 constructs, works or possesses For illegally

[*] S. 34A was inserted by Act VI of 1885, s. 3, printed *infra*, p. 120.

manufacturing spirit or liquor.

a distillery, still or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both;

and all spirit and liquor made in contravention of section 5, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

For illegally introducing country spirit.

36. Any person who—

(*a*) without a special pass from the Collector, introduces, into the limits fixed for the consumption of spirit made at a distillery established under section 6, any country spirit manufactured at another place, or

For illegally removing spirit or fermented liquor.

(*b*) in contravention of section 7 [a]or section 7A, [a]or of any rule made under section 8 or section 9, removes any spirit from a distillery [b]or any fermented liquor from a brewery,[b] or

For illegally importing spirit or fermented liquor.

(*c*) in contravention of section 23, brings any spirit [c]or fermented liquor[c] into any territory to which this Act extends,

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both;

and the spirit, [d]or fermented liquor,[d] together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

For contravening rules prescribed by Chief Revenue-authority.

37. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 8 or section 9 shall be punished with fine not exceeding one hundred rupees.

For illegally cultivating hemp and preparing drugs.

38. Any person who, in contravention of section 11 or of any rule made thereunder, cultivates hemp or prepares any intoxicating drug, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

For illicit sale of spirit, etc.

39. Any person who, in contravention of section 12, sells any spirit, fermented liquor or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with a fine which may extend to one thousand rupees, or with both.

For permitting drunkenness, etc., in shop.

40. Any person licensed to sell retail spirit, or fermented liquor, or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or re-

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[a-a, b-b] These words, etc., were inserted by Act XIII of 1890, s. 5.
[c-c, d-d] These words were inserted by Act II of 1887, s. 6 (*1*) and (*2*), respectively, printed, General Acts, 1885-88, Ed. 1889, p. 120.

ceives any wearing-apparel or other effects in barter for spirit, fermented liquor or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees.

Illegal possession of spirit, liquor or drug.

41. Any person who possesses any spirit, liquor or drug, in contravention of section 21 or section 22, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both;

and the spirit, liquor or drug, together with any vessels, packages and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

For refusal to produce license and for breach of rules and conditions.

42. Any person holding a license under this Act and refusing to produce the same on the demand of any Excise-officer, and any person who breaks any rule made under this Act or any condition of a license granted under this Act, for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees.

For conniving at illicit manufacture or sale of spirit, etc.

43. Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs, shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

And any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit, fermented liquor or intoxicating drug within the local limits of such jurisdiction shall be punished with fine which may extend to five hundred rupees.

For Police neglecting to aid Excise-officers.

44. Any Police-officer who, without lawful excuse, neglects or refuses to aid an Excise-officer as required by section 34, and any officer in charge of a police-station who, on application made by an Excise-officer desiring to act under section 29, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees.

For vexatious search or seizure.

45. Any Excise-officer who—

(*a*) without reasonable grounds of suspicion searches or causes to be searched any place, or

(*b*) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

(*c*) vexatiously and unnecessarily arrests any person, or

(*d*) commits any other excess not required for the execution of his duty,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

For delay in reporting arrest, etc., or in taking person arrested to Magistrate.

46. Any Excise-officer who, in contfavention of section 32 or section 33, neglects to report the particulars of an arrest, seizure or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

[a]**47.** A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 35, 36, 37, 38, 39, 41, 42 and 43, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Confinement in what jail.

48. Every person imprisoned for an offence under section 37 or section 42 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.

49. Whoever attempts to commit any offence punishable under this Act or abets within the meaning of the Indian Penal Code[b] the commission of any such offence shall be punished with the punishment provided for such offence. XLV of 1860

Disposal of fines, etc., as rewards.

50. Any Magistrate before whom any person is convicted of any offence under sections 35, 36, 37, 38, 39, 41 or 43 may award to any person who has contributed in any way to such conviction the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Magistrate to pass order of confiscation.

51. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

CHAPTER VIII.

MILITARY CANTONMENTS.

Manufacture and sale of spirits, etc., in military cantonments.

52. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no

[a] This section was substituted for the original s. 47 by Act VI of 1885, s. 4, printed *infra*, p. 120.

[b] For Act XLV of 1860 see the revised edition as modified up to 1st August, 1890, published by the Legislative Department.

licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor, be let in farm, unless with the knowledge and consent of the Commanding Officer;

and upon his requisition any such license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled.

Application of Act to military cantonments.

53. In all other respects the provisions of this Act shall have effect within such limits or distance.[a]

CHAPTER IX.

MISCELLANEOUS.

Collector subject to control of Commissioner.

54. The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors.

The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

Additional power to make rules.

55. The [b]Chief Revenue-authority[b] may, from time to time, make rules consistent with this Act—

(*a*) as to the period for which any license or farm under this Act shall be granted;

(*b*) as to the fee payable for any such license or farm, and the time or times at which it shall be payable;

(*c*) as to the security to be given by any licensee or farmer under this Act;

(*d*) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer, and the conditions which may be inserted therein;

(*e*) as to the disposal of things confiscated under this Act;

(*f*) as to the duties of Excise-officers; and

(*g*) to provide generally for carrying out the provisions of this Act.

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[a] The proviso, repealed by Act XIII of 1889, is omitted.
[b-b] These words were substituted for the original words by Act XII of 1891.

Power to exempt articles and persons

56. The Local Government may from time to time, by notification in the official Gazette, exempt within any specified local area any specified articles or any specified class of persons from all or any of the foregoing provisions of this Act, and may, by like notification, cancel any such exemption.

THE INDIAN EASEMENTS ACT, 1882.

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ACT No. V OF 1882.

(*Received the Governor General's assent on the 17th February, 1882.*)

An Act to define and amend the law relating to Easements and Licenses.

Preamble. WHEREAS it is expedient to define and amend the law relating to Easements and Licenses; It is hereby enacted as follows:—

PRELIMINARY.

Short title. 1. This Act may be called the Indian Easements Act, 1882.

It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg; Local extent.

and it shall come into force on the first day of July, 1882. Commencement.

2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed; or to derogate from— Savings.

(*a*) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation;

(*b*) any customary or other right (not being a license) in or over immoveable property which the Government, the public or any person may possess irrespective of other immoveable property; or

(*c*) any right acquired, or arising out of a relation created, before this Act comes into force.

XV of 1877. 3. Sections 26 and 27 of the Indian Limitation Act, 1877, [a] and the definition of "easement" contained in that Act, are repealed in the territories to which this Act extends. All references in any Act or Regulation to the said sections, or to sections 27 and 28 of Act No. IX of 1871 [b], shall, in such territories, be read as made to sections 15 and 16 of this Act. Repeal of parts of the Indian Limitation Act, 1877.

CHAPTER I.

Of Easements generally.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own. "Easement" defined.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner. Dominant and servient heritages and owners.

Explanation.—In the first and second clauses of this section, the expression "land" includes also things permanently attached to the earth: the expression "beneficial enjoyment" includes also possible convenience, remote advantage,

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[a] For Act XV of 1877, see the revised edition, as modified up to 1st December, 1892, published by the Legislative Department.

[b] Act IX of 1871 was repealed by Act XV of 1877.

and even a mere amenity; and the expression "to do something" includes removal and appropriation by the dominant owner, for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

Illustrations.

(*a*) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(*b*) A, as the owner of a certain house, has the right to go on his neighbour B's land and to take water for the purposes of his household out of a spring therein. This is an easement.

(*c*) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(*d*) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(*e*) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(*f*) A is bound to cleanse a watercourse running through his land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

Continuous and discontinuous, apparent and non-apparent, easements

5. Easements are either continuous or discontinuous, apparent or non-apparent.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which, upon careful inspection by a competent person, would be visible to him.

A non-apparent easement is one that has no such sign.

Illustrations.

(*a*) A right annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(*b*) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(*c*) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(*d*) A right annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exerciseable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Easement for limited time or on condition.

7. Easements are restrictions of one or other of the following rights (namely):—

Easements restrictive of certain rights.

(*a*) the exclusive right of every owner of immoveable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto;

Exclusive right to enjoy.

(*b*) the right of every owner of immoveable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation;

Rights to advantages arising from situation.

Illustrations of the Rights above referred to.

(*a*) The exclusive right of every owner of land in a town to build on such land, subject to any municipal law for the time being in force.

(*b*) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(*c*) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(*d*) The right of every owner of land to so much light and air as pass vertically thereto.

(*e*) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent and adjacent soil of another person.

Explanation.—Land is in its natural condition when it is not excavated and not subjected to artificial pressure; and the "subjacent and adjacent soil" mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(*f*) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(*g*) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(*h*) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake

or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(*i*) The right of every owner of upper land that water naturally rising in, or falling on, such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(*j*) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

Explanation.—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

Who may impose easements.

8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed.

Illustrations.

(*a*) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(*b*) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(*c*) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(*d*) A and B are lessees of the same lessor, A, of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

Servient owners.

9. Subject to the provisions of section 8, a servient owner may impose on the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility.

Illustrations.

(*a*) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: Provided that A's supply is not thereby diminished.

(*b*) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the [illegible] on the way: Provided that A's right of way is not thereby obstructed.

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Lessor and mortgagor.

10. Subject to the provisions of section 8, a lessor may impose, on the property leased, any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor, cannot without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

Lessee.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor.

Who may acquire easements.

12. An easement may be acquired by the owner of the immoveable property for the beneficial enjoyment of which the right is created, or on his behalf, by any person in possession of the same.

One or two or more co-owners of immoveable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immoveable property can acquire, for the beneficial enjoyment of other immoveable property of his own, an easement in or over the property comprised in his lease.

Easements of necessity and *quasi* easements.

13. Where one person transfers or bequeaths immoveable property to another,—

(*a*) if an easement in other immoveable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement; or

(*b*) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement;

(*c*) if an easement in the subject of the transfer or bequest is necessary

for enjoying other immoveable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement; or

(*d*) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

(*e*) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or

(*f*) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (*a*), (*c*) and (*e*), are called easements of necessity.

Where immoveable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

Illustrations.

(*a*) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(*b*) A, the owner of two fields, sells one to B, and retains the other. The field retained was at the date of the sale used for agricultural purposes only, and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(*c*) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(*d*) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(*e*) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(*f*) A, is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(*g*) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(*h*) A, the owner of two adjoining houses Y and Z, sells Y to B, and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z as it was enjoyed when the sale took effect.

(*i*) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(*j*) A, the owner of two adjoining buildings, sells one to B, and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(*k*) A grants lands to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

X of 1870. (*l*) Under the Land Acquisition Act, 1870,[a] a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding.

(*m*) Owing to the partition of joint property, A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

(*n*) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

Direction of way of necessity.

14. When [b]a right[b] to a way of necessity is created under section 13, the transferor, the legal representative of the testator or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way; but it must be reasonably convenient for the dominant owner.

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[a] Printed, General Acts, 1867-76, Ed 1887, p 177.
[b-b] These words were substituted for the original word by Act XII of 1891.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

Acquisition by prescription.

15. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years,

and where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation I.—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

Explanation II—Nothing is an interruption within the meaning of this section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Explanation III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

Explanation IV.—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government this section shall be read as if, for the words "twenty years" the words "sixty years" were substituted.

Illustrations.

(*a*) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862, to 1st January, 1882. The plaintiff is entitled to judgment.

(*b*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed "as an easement" for twenty years.

(*c*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed "as of right" for twenty years.

Exclusion in favour of reversioner of servient heritage.

16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C had a life-interest in the land; that on C's death B became entitled to the land; and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Rights which cannot be acquired by prescription.

17. Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights.

None of the following rights can be so acquired:—

(*a*) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed;

(*b*) a right to the free passage of light or air to an open space of ground;

(*c*) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise;

(*d*) a right to underground water not passing in a defined channel.

Customary easements.

18. An easement may be acquired in virtue of a local custom. Such easements are called customary easements.

Illustrations.

(*a*) By the custom of a certain village every cultivator of village land is entitled as such to graze his cattle on the common pasture. A having become the tenant of a plot of uncultivated land in the village breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(*b*) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

Transfer of dominant heritage passes easement.

19. Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

Illustration.

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

CHAPTER III.

The Incidents of Easements.

Rules controlled by contract or title.

20. The rules contained in this chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed.

Incidents of customary easements.

And, when any incident of any customary easement is inconsistent with such rules, nothing in this chapter shall affect such incident.

Bar to use unconnected with enjoyment.

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

Illustrations.

(*a*) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y, A has another farm Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(*b*) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

Exercise of easement. Confinement of exercise of easement.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and, when the exercise of an easement can without detriment to the dominant owner, be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined.

Illustrations.

(*a*) A has a right of way over B's field. A must enter the way at either end and not at any intermediate point.

(*b*) A has a right annexed to his house to cut thatching-grass in B's swamp. A when exercising his easement must cut the grass so that the plants may not be destroyed.

Right to alter mode of enjoyment.

23. Subject to the provisions of section 22 the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage.

Exception.—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

Illustrations.

(*a*) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(*b*) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(*c*) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature, of the pollution.

(*d*) A, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

Right to do acts to secure enjoyment.

24. The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement; [a] but such

[a] But see s. 36, *infra*, as to abatement of obstruction of easement.

acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Accessory rights.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Illustrations.

(*a*) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(*b*) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(*c*) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(*d*) A, as owner of a certain field, has a right of way over B's land. B renders the way impassable. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(*e*) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(*f*) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(*g*) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

Liability for expenses necessary for preservation of easement.

25. The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

Liability for damage from want of repair.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work.[a]

Servient owner not bound to do anything.

27. The servient owner is not bound to do anything for the benefit of the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement: but he must not do any act tending to restrict the easement or to render its exercise less convenient.

Illustrations.

(*a*) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound as servient owner to clear the watercourse or scour the sewer.

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[a] But see s. 50, *infra*, as to extinguishment or suspension of easement.

(*b*) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(*c*) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(*d*) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(*e*) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

28. With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect:— Extent of easements.

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed. Easement of necessity.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired. Other easements.

In the absence of evidence as to such intention and purpose—

(*a*) a right of way of any one kind does not include a right of way of any other kind: Right of way.

(*b*) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made: Right to light or air acquired by grant.

(*c*) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used: Prescriptive right to light or air.

(*d*) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose: and Prescriptive right to pollute air or water.

(*e*) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right. Other prescriptive rights.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement. Increase of easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased, and if the dominant heritage is diminished by diluvion the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

Illustrations.

(*a*) A, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(*b*) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(*c*) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

Partition of dominant heritage.

30. Where a dominant heritage is divided between two or more persons, the easement becomes annexed to each of the shares, but not so as to increase substantially the burden on the servient heritage: Provided that such annexation is consistent with the terms of the instrument, decree or revenue-proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period.

Illustrations.

(*a*) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.

(*b*) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage, to draw from the well fifty buckets a day; but the amount drawn by both must not exceed fifty buckets a day.

(*c*) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

Obstruction in case of excessive user.

31. In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage: Provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

Illustration.

A, having a right to the free passage over B's land of light to four windows 6 feet by 4, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

32. The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person. Right to enjoyment without disturbance.

Illustration.

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

33. The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto: Provided that the disturbance has actually caused substantial damage to the plaintiff. Suit for disturbance of easement.

Explanation I.—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

Explanation II.—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section unless it falls within the first Explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

Explanation III.—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

Illustrations.

(*a*) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(*b*) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about 10 feet from the ground, so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

When cause of action arises for removal of support.

34. The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage[a] is actually sustained.

Injunction to restrain disturbance.

35. Subject to the provisions of the Specific Relief Act, 1877,[b] sections 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement— I of 1877.

(*a*) if the easement is actually disturbed—when compensation for such disturbance might be recovered under this chapter :

(*b*) if the disturbance is only threatened or intended—when the act threatened or intended must necessarily, if performed, disturb the easement.

Abatement of obstruction of easement.

36. Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

Extinction by dissolution of right of servient owner.

37. When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

Exception.—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

Illustrations.

(*a*) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends, and with it the easement is extinguished.

(*b*) A, in 1860, let Sultanpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interests in Sultanpur then ends, and with it C's easement.

(*c*) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(*d*) A mortgages Sultanpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage debt. The easement is not thereby extinguished.

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[a] As to meaning of "substantial damage," see s. 33, Expl. 1, *supra*.
[b] Printed, General Acts, 1877-81, Ed. 1881, p. 5.

38. An easement is extinguished when the dominant owner releases it, expressly or impliedly, to the servient owner. Extinction by release.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

Explanation I.—An easement is impliedly released—

(*a*) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority;

(*b*) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

Explanation II.—Mere non-user of an easement is not an implied release within the meaning of this section.

Illustrations.

(*a*) A, B and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(*b*) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C. B then purports to release the easement. The release is ineffectual.

(*c*) A, having the right to discharge his eavesdroppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge B builds accordingly. A's easement is extinguished to the extent of the interference.

(*d*) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(*e*) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land, permanently alters the roof, so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

39. An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement. Extinction by revocation.

40. An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled. Extinction on expiration of limited period or happening dissolving condition.

41. An easement of necessity is extinguished when the necessity comes to an end. Extinction on termination of necessity.

Illustration.

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

Extinction of useless easement.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

Extinction by permanent change in dominant heritage.

43. Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

(*a*) it was intended for the beneficial enjoyment of the dominant heritage to whatever extent the easement should be used ; or

(*b*) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it ; or

(*c*) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

Extinction on permanent alteration of servient heritage by superior force.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement :

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage ; and the provisions of section 14 apply to such way.

Illustrations.

(*a*) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(*b*) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

Extinction by destruction of either heritage.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

Illustration.

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

Extinction by unity of ownership.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Illustrations.

(*a*) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(*b*) The dominant owner acquires only part of the servient heritage: the easement is not extinguished, except in the case illustrated in section 41.

(*c*) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.

(*d*) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages: the easements are not extinguished.

(*e*) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(*f*) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(*g*) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

Extinction by non-enjoyment.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner:

III of 1877.

Provided that if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877, [a] a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not

[a] For Act III of 1877 in the revised edition, as modified up to 1st December, 1892, published by the Legislative Department.

aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

(*a*) where the cessation is in pursuance of a contract between the dominant and servient owners;

(*b*) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period; or

(*c*) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

Illustration.

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the interventing heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

Extinction of accessory rights.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

Illustration.

A has an easement to draw water from B's well. As accessory thereto he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

Suspension of easement.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Servient owner not entitled to require continuance.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Compensation for damage caused by extinguishment.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

Illustration.

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A

then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

Revival of easements.

51. An easement extinguished under section 45 revives (*a*) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (*b*) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and (*c*) when the destroyed heritage is a dominant building and before twenty years have expired such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

Illustration.

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

CHAPTER VI.

LICENSES.

"License" defined.

52. Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

Who may grant license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

Grant may be express or implied.

54. The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

Accessory

55. All licenses necessary for the enjoyment of any interest, or the exer-

licenses annexed by law.

cise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

Illustration.

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

License when transferable

56. Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

Illustrations.

(*a*) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immoveable property of B. The right cannot be transferred.

(*b*) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

Grantor's duty to disclose defects.

57. The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware.

Grantor's duty not to render property unsafe.

58. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

Grantor's transferee not bound by license.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

License when revocable.

60. A license may be revoked by the grantor, unless—

(*a*) it is coupled with a transfer of property and such transfer is in force:

(*b*) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

Revocation express or implied.

61. The revocation of a license may be express or implied.

Illustrations.

(*a*) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(*b*) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

License when deemed revoked.

62. A license is deemed to be revoked—

(*a*) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license:

(*b*) when the licensee releases it, expressly or impliedly, to the grantor or his representative:

(*c*) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires, or the condition is fulfilled:

(*d*) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right:

(*e*) where the licensee becomes entitled to the absolute ownership of the property affected by the license:

(*f*) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable:

(*g*) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist:

(*h*) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee:

(*i*) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

Licensee's rights on revocation.

63. Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's rights on eviction.

64. Where a license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

ACT No. VI OF 1885.

(*Received the Governor General's assent on the 6th February, 1885.*)

An Act to amend Act XXII of 1881.[a]

XII of 1881.

WHEREAS it is expedient to amend the Excise Act, 1881;[a] It is hereby enacted as follows:—

Amendment of section 28 of said Act.

1. In section 28 of the said Act, after the words "ten rupees" the words

[a] Printed *supra*, p. 78.

"or who receives an annual remuneration equivalent to such salary" shall be inserted.

Amendment of section 29.

2. In the first paragraph of section 29 of the same Act, after the word "salary" the words "or annual remuneration" shall be inserted; and in the second paragraph of the same section, after the word "rupees" the words "unless the Excise-officer is himself such an officer of Police" shall be inserted.

New section inserted after section 34.

3. In the same Act, after section 34, the following section shall be inserted:—

[Printed *supra*, p. 89.]

New section substituted for section 47.

4. For section 47 of the same Act the following shall be substituted, namely:—

[Printed *supra*, p. 92.]

ACT No. III OF 1886.[a]

(*Received the Governor General's assent on the 29th January, 1886.*)

An Act to amend the Northern India Ferries Act, 1878.[b]

WHEREAS it is expedient to amend the Northern India Ferries Act, 1878;[b] It is hereby enacted as follows:— XVII of 1878.

Substitution of new section for section 8, and amendment of sections 12 and 15.

1. (*1*) For section 8 the following shall be substituted, namely:—

[Printed *supra*, p. 55.]

(*2*) For section 12, clause (*b*), the following shall be substituted, namely:—

[Printed *supra*, p. 56.]

(*3*) In the third paragraph of section 15, for the word "auction" the word "lease" shall be substituted.

Amendment of section 13, and substitution of new section for section 26.

2. (*1*) For the first paragraph of section 13 the following shall be substituted, namely:—

[Printed *supra*, p. 56.]

(*2*) In the second proviso to the said section, after the word "boats" the words "which do not ply for hire or" shall be inserted.

(*3*) For section 26 the following shall be substituted, namely:—

[Printed *supra*, p. 59.]

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[a] Act III of 1886 was extended to Coorg by notification under the Scheduled Districts Act, 1874—see Appendix, p. 171.

[b] Printed *supra*, p. 53.

PART III:

ACTS OF THE GOVERNORS OF FORT ST. GEORGE AND BOMBAY IN COUNCIL IN FORCE IN COORG.

THE MADRAS COFFEE-STEALING PREVENTION ACT, 1878.

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MADRAS ACT No. VIII OF 1878.[*]

(*Received the Governor's assent on the 30th August, 1878, and the Governor General's assent on the 28th September, 1878, and published by the Governor on the 22nd October, 1878.*]

An Act to prevent Thefts of Coffee.

Preamble.

WHEREAS it is expedient to make special provision to prevent thefts of coffee, and to repress and punish the offence of receiving or disposing of stolen coffee in the neighbourhood of coffee-plantations or estates; It is enacted as follows :—

Short title.

1. This Act may be called the Madras Coffee-stealing Prevention Act, 1878.

Commencement and local extent.

2. This Act shall take effect in such districts, divisions or parts of districts or within such localities or limits within the Presidency of Fort St. George, and from such date, as the Governor in Council may from time to time direct by notification published in the official Gazette.

Power to modify or annul notification.

The Governor in Council may from time to time modify or cancel such direction by notification similarly published.

Interpretation-clause.

3. In this Act—

"labourer" means and includes all persons (except resident managers) temporarily or permanently employed on a coffee-estate in any capacity, whether agricultural, menial or otherwise howsoever :

"carrier" means and includes all persons for the time being employed in the transport of coffee, whether by porterage, pack-animals, boat, cart or otherwise, and whether as contractors, drivers or otherwise :

"coffee-estate" means and includes any land on which coffee is growing :

"coffee" means and includes all coffee not roasted or otherwise prepared for immediate consumption.

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[*] Madras Act VIII of 1878 was extended to Coorg by notification under the Scheduled Districts Act, 1874- see Appendix, p. 173.

4. It shall not be lawful for any one to purchase, take in barter or exchange or receive coffee from any labourer employed on a coffee-estate. Coffee not to be taken from labourer

5. It shall not be lawful for any one to purchase, take in barter or exchange or receive coffee from any person other than a labourer employed on a coffee-estate, unless the person so purchasing, taking in barter or exchange or receiving such coffee shall immediately thereupon enter or cause to be entered in a book to be kept by him for that purpose a true record of such transaction specifying— Coffee not to be taken from other than labourer, unless particulars entered in book

(*a*) the name, residence and occupation of the person from whom such coffee was so purchased, taken in barter or exchange or received;

(*b*) the date of the transaction; and

(*c*) the quantity and description of the coffee so purchased, taken in barter or exchange or received:

Provided that this section shall not apply to coffee purchased, taken in barter or exchange or received from any person other than a labourer employed on a coffee-estate, and intended *bonâ fide* for consumption in the house or on the premises of the person purchasing, taking in barter or exchange or receiving the same as aforesaid. Section not to apply to coffee taken for *bonâ fide* personal consumption.

6. All books required by section 5 to be kept by persons purchasing coffee shall be produced upon the requisition of any police-officer not below the rank of an officer in charge of a police-station, generally or specially authorized by any Magistrate to require the production of such books. Books to be produced on police-officer's requisition.

7. It shall not be lawful for any one to purchase or take in barter or exchange coffee from any carrier, or for any carrier to sell or give in barter or exchange any coffee, unless the person so purchasing or taking in barter or exchange such coffee shall, besides making the entry required by section 5 of this Act, also enter or cause to be entered in the book mentioned in the said section 5 the marks (if any) on the bags or other packages in which such coffee may be contained, and unless the entries required by this section and by the said section 5 be also correctly signed by such carrier in his own name, and attested by a police-officer or the headman of the village within which the transaction takes place; for which attestation no fee shall be chargeable. Conditions under which coffee may be taken from a carrier.

8. Any person committing any breach of the provisions contained in section 4, 5, 6 or 7 of this Act shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees. Penalty for breach of section 4, 5, 6 or 7.

9. Any cooly maistry or other labourer employed on a coffee-estate found with green gathered coffee in his possession, and failing to account satisfac- Penalty in case of labourer being

found in possession of green coffee for which he cannot account.

torily for such possession, shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Coffee not to be carried without permission of owner or agent.

10. No person shall carry or remove coffee from any coffee-estate, premises or place, or upon any road, highway or footway, without the express permission of the owner or of his authorized agent.

Permission to be in writing, etc.

Such permission shall be in writing, dated and signed by the said owner or his authorized agent, and shall contain the following particulars:—

(*a*) the quantity of the coffee to be carried or removed;

(*b*) the number, description and marks of the packages in which such coffee is secured;

(*c*) the place or destination to which the coffee is to be carried or removed; and

(*d*) the names of the consignor and consignee.

Penalty for breach of this section.

Any person committing any breach of the provisions of this section shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees.

Hours of gathering or removing coffee.

11. No coffee shall be gathered, moved, loaded or unloaded on any coffee-estate between sunset and sunrise.

Penalty for breach of above provision.

Any person committing a breach of this provision, or abetting (within the meaning of the Indian Penal Code[a]) such breach, shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees: XLV of 1860.

Section 10 and this section not to apply to ordinary operations of curing.

Provided that nothing in section 10 or in this section shall apply to the ordinary operations of curing the crop on the estate, such as pulping or storing.

Procedure if gathering, etc., was done to commit theft.

12. If it shall appear that such gathering, moving, loading or unloading was for the purpose of committing a theft, the person or persons so engaged shall be liable to be charged with theft, or abetment of theft, and be proceeded against for such offence under the provisions of sections 378 and 379, or sections 107, 108 and 109 of the Indian Penal Code,[a] as the case may be.

Substituted or additional punishment for second offence under section 9.

13. It shall be at the discretion of the Magistrate, in the case of any persons, not being females, who shall be convicted of a second offence under section 9 of this Act, to substitute or add corporal punishment under the pro-

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

visions of Act No. VI of 1864[a] (*an Act to authorize the punishment of whipping in certain cases*), or of any other law for the time being in force in that behalf, for or to the penalties provided by this Act:

Provided that such substituted or additional punishment shall be awarded only in respect of the offence itself, and not as an alternative penalty for non-payment of fine. Proviso

14. All fines paid or levied under this Act shall be paid into the public treasury: Fines to be paid into public treasury.

Provided that the Magistrate trying any case under this Act may grant the whole or any portion of any fine levied therein as rewards to persons furnishing such information as may have led to the conviction of offenders under this Act. Magistrate may grant rewards to informers.

BOMBAY ACT No. V OF 1879.[b]

(*Received the Governor's assent on the 26th April, 1879, and the Governor General's assent on the 30th June, 1879, and published by the Governor on the 17th July, 1879.*)

An Act to consolidate and amend the Law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.

Preamble and 1 to 94. *Omitted under Chief Commissioner's Notification No. 25, dated 25th November, 1887* (*Appendix, p. 173*).

95. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct the survey of any land in any part of the Presidency, with a view to the settlement of the land-revenue, and to the record and preservation of rights connected therewith, or for any other similar purpose, and such survey shall be called a revenue-survey. Such survey may extend to the lands of any village, town or city generally, or to such land only as the Governor in Council may direct; and, subject to the orders of the Governor in Council, it shall be lawful for the officers conducting any such survey to except from the survey-settlement any land to which it may not seem expedient that such settlement should be applied. Revenue-survey may be introduced.

The control of every such revenue-survey shall vest in, and be exercised by, the Governor in Council. Control of revenue-survey

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[a] Printed, General Acts, 1834-66, Ed 1887, p 406

[b] Ss 95-97, 118-123, 125, 126, 188-191 and 200 of Bombay Act V of 1879 were extended to Coorg by notification under the Scheduled Districts Act, 1874—see Appendix, p. 173.

Survey-officer may require by general notice, or by summons, suitable service from holders of land, etc.

96. It shall be lawful for the survey-officer deputed to conduct or take part in any such survey to require, by general notice, or by summons, the attendance of holders of lands and of all persons interested therein, in person, or by legally constituted agent duly instructed and able to answer all material questions, and the presence of taluka and village officers, who in their several stations and capacities are legally, or by usage, bound to perform service in virtue of their respective offices, and to require from them such assistance in the operations of the survey and such service in connection therewith, as may not be inconsistent with the position of the individual so called on.

Assistance to be given by holders and others in the measurement or classification of lands.

97. It shall be lawful for the survey-officer to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag-holders ; and in the event of a necessity for employing hired labour for this, or other similar object incidental to survey-operations, it shall be lawful to assess the cost thereof, with all contingent expenses, on the lands surveyed, for collection as a revenue-demand.

98 to 117. *Omitted under Chief Commissioner's Notification No. 25, dated 25th November, 1887* (*Appendix, p. 173*).

Determination of village-boundaries.

118. The boundaries of villages situated in British territory shall be fixed and all disputes relating thereto shall be determined by survey-officers, or by such other officers as may be nominated by Government for the purpose, who shall be guided by the following rules :—

Village-boundaries may be settled by agreement.

Rule 1.—When the patels and other village-officers of any two or more adjoining villages, and, in the case of an alienated village, the holder thereof or his duly constituted agent, shall voluntarily agree to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon. And any village-boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means.

Procedure in case of disagreement or dispute.

Rule 2.—If the patels and other village-officers, and, in the case of an alienated village, the holder thereof or his duly constituted agent, do not agree to fix the boundaries of their respective villages, in the manner prescribed in the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means, or if there be any pending dispute, the said officer shall make a survey and plan of the

ground in dispute, exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal inquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a survey-officer shall, unless the officer making it be the Superintendent of Survey, be subject to his confirmation, and an award made by any other officer shall be subject to confirmation by such other officer as Government may nominate for the purpose.

Determination of field-boundaries.

119. If, at the time of a survey, the boundary of a field or holding be undisputed, and its correctness be affirmed by the village-officers then present, it may be laid down as pointed out by the holder or person in occupation, and if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the survey-officer according to the village-records, and according to occupation as ascertained from the village-officers and the holders of adjoining lands, or on such other evidence or information as the survey-officer may be able to procure.

If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if at any time after the survey-records have been handed over to the Collector, a dispute arise concerning the boundary of any survey-number, it shall be determined by the Collector, who shall be guided in the case of survey-numbers by the survey-records, if they afford satisfactory evidence of the boundary previously fixed, and, if not, by such other evidence as he may be able to procure.

Settlement of boundary-disputes by arbitration.

120. If the several parties concerned in a boundary-dispute agree to submit the settlement thereof to an arbitration committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties to nominate a committee of not less than three persons, within a specified time, and, if within a period to be fixed by the said officer, the committee so nominated or a majority of the members thereof arrive at a decision, such decision, when confirmed by the said officer, or, if the said officer be a survey-officer lower in rank than a Superintendent of Survey, by the Superintendent of Survey, shall be final :

When award may be remitted for reconsideration.

Provided that the said officer, or the Superintendent of Survey, shall have power to remit the award, or any of the matters referred to arbitration, to the reconsideration of the same committee, for any of the causes set forth in section 520 of the Code of Civil Procedure.[a]

XIV of 1882.

[a] The reference to s. 520 of Act X of 1877 should now be read as applying to s. 520 of Act XIV of 1882—see s 3 of the latter Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

If arbitration fail, survey-officer to settle the dispute.

If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he or, if the said officer is a survey-officer lower in rank than a Superintendent of Survey, the Superintendent of Survey, see fit to extend the time, to settle the same as otherwise provided in this Act.

Effect of the settlement of boundary.

121. The settlement of a boundary under any of the foregoing provisions of this chapter shall be determinative—

(*a*) of the proper position of the boundary-line or boundary-marks, and

(*b*) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

Construction and repair of boundary-marks of survey-numbers and villages.

122. It shall be lawful for any survey-officer, authorized by a Superintendent of Survey or Settlement-officer, to cause to be constructed or repaired boundary-marks of villages or survey-numbers, whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein.

Requisition on landholders to erect or repair boundary-marks.

Such officer may require landholders to construct or repair their boundary-marks, by a notification which shall be posted in the chauri or other public place in the village, to which the lands under survey belong, directing the holders of survey-numbers to construct or repair, within a specified time, the boundary-marks of their respective survey-numbers, and, on their failure to comply with the requisition so made, the survey-officer shall then construct or repair them, and assess all charges incurred thereby as hereinbefore provided.

A general notification to be good and sufficient notice of requisition.

A general notification, issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey-numbers within the limits of the lands to which the survey extends.

Description of boundary-marks.

The size, material and description of boundary-marks shall be such as may be deemed necessary by the Superintendent of Survey, according to the requirements of soil and climate.

Responsibility for the maintenance of boundary-marks.

123. Every landholder shall be responsible for the maintenance and good repair of the boundary-marks of his holding, and for any charges reasonably incurred on account of the same by the revenue-officers in cases of alteration, removal or disrepair. It shall be the duty of the village-officers and servants to prevent the destruction or unauthorized alteration of the village-boundary-marks.

124.—*Omitted under Chief Commissioner's Notification No. 25, dated 25th November, 1887* (*Appendix, p. 175*).

125. Any person convicted, after a summary inquiry before the Collector, or before a survey-officer, mamlatdar or mahalkari, of wilfully erasing, removing or injuring a boundary-mark, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed or injured. Penalty for injuring boundary-marks.

One-half of every fine imposed under this section may be awarded by the officer imposing it to the informer, if any, and the other half shall be chargeable with the cost of restoring the mark.

126. It shall be lawful for the Collector, or for a survey-officer, acting under the general or special orders of Government, to determine what lands are included within the site of any village, town or city, and to fix, and from time to time to vary, the limits of the same, respect being had to all subsisting rights of landholders. Limits of sites of villages, towns and cities how to be fixed.

127 to 187. *Omitted under Chief Commissioner's Notification No. 25, dated 25th November, 1887* (*Appendix, p. 173*).

188. In all official acts and proceedings a revenue-officer shall, in the absence of any express provision of law to the contrary, be subject as to the place, time and manner of performing his duties to the direction and control of the officer to whom he is subordinate. Subordination of revenue-officers.

189. Every revenue-officer not lower in rank than a mamlatdar's first karkun, or an Assistant Superintendent of Survey, in their respective departments, shall have power to summon any person whose attendance he considers necessary either to be examined as a party, or to give evidence as a witness, or to produce documents for the purposes of any inquiry which such officer is legally empowered to make. A summons to produce documents may be for the production of certain specified documents, or for the production of all documents of a certain description in the possession of the person summoned. Power to summon persons to give evidence and produce documents.

All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct: Provided that exemptions under sections 640 and 641 of the Code of Civil Procedure[*] shall be applicable to requisitions for attendance under this section; XIV of 1882.

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

190. Every summons shall be in writing, in duplicate, and shall state the Summons to

[*] The references to ss. 640 and 641 of Act X of 1877 should now be read as applying to ss. 640 and 641 of Act XIV of 1882—see s. 3 of the latter Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

be in writing, signed and sealed.

purpose for which it is issued, and shall be signed by the officer issuing it, and if he have a seal shall also bear his seal;

How to be served.

and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

Service in district other than that of issuer.

If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served in accordance with the preceding clause of this section.

Mode of serving notices.

191. Every notice under this Act, unless it is otherwise expressly provided, shall be served either by tendering or delivering a copy thereof to the person on whom it is to be served or to his agent, if he have any;

or by affixing a copy thereof to some conspicuous place on the land, if any, to which such notice refers.

Notice not void for error.

No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced substantial injustice.

192 to 199.—*Omitted under Chief Commissioner's Notification No. 25, dated 25th November, 1887* (*Appendix, p. 173*).

Power of revenue-officer to enter upon any lands or premises for purposes of measurement, etc.

200. It shall be lawful for any revenue-officer at any time, and from time to time, to enter, when necessary, for the purposes of measurement, fixing or inspecting boundaries, classification of soil, or assessment, or for any other purpose connected with the lawful exercise of his office under the provisions of this Act, or of any other law for the time being in force relating to land-revenue, any lands or premises, whether belonging to Government or to private individuals, and whether fully assessed to the land-revenue or partially or wholly exempt from the same: Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof, without a notice having been served at the said building not less than seven days before such entry; and provided also that, in the cases of buildings of all descriptions, due regard shall be paid to the social and religious prejudices of the occupiers.

Proviso.

201 to 218 and Schedules.—*Omitted under Chief Commissioner's Notification No 25, dated 25th November, 1887* (*Appendix, p. 173*).

PART IV:

REGULATIONS UNDER THE STATUTE 33 VICT. CAP. 3, IN FORCE IN COORG.

THE COORG COURTS REGULATION, 1881.

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8. Judicial Commissioner's Court, High Court.
   Commissioner's Court, principal Civil Court of original jurisdiction.
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14. Local limits within which Courts of the Assistant Commissioners to exercise appellate jurisdiction.
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17. Procedure when officer subordinate to Judicial Commissioner is interested, etc.
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III.—Criminal Justice.

18. Judicial Commissioner's Court to be deemed to be, except as regards European British subjects, High Court for Coorg.

IV.—Miscellaneous.

19. Judicial Commissioner empowered to make rules as to ministerial officers.
Power to presiding officer to fine ministerial officers of Court.
20. Judicial Commissioner empowered to hold Court within or without limits of Coorg.
21. [*Repealed.*]

REGULATION No. II OF 1881.

(*Published in the Gazette of India of 12th November, 1881, Part I, page 552.*)

A Regulation to amend the law relating to the Courts in the Province of Coorg.

WHEREAS it is expedient to amend the law relating to the Courts in the Province of Coorg; It is hereby enacted as follows:—

I.—Preliminary.

Short title.

1. This Regulation may be called the Coorg Courts Regulation, 1881;

Commencement.

and it shall come into force on the date[a] of its publication in the Gazette of India.

Repeal of enactments.

2. On and from such date[a] Act No. XXV of 1868 (the Coorg Courts Act)[b] shall be repealed;

Saving.

But such repeal shall not affect anything done, or any offence committed or any fine or penalty incurred, or any proceedings commenced, before the said date;

[a] *i.e.*, the 12th November, 1881—see heading
[b] Words and figures repealed by Reg. I of 1885, s. 2 (printed *infra*, p. 138), are omitted.

And all rules prescribed, forms framed, tables of fees settled, appointments
XXV of 1868. made and powers conferred under the said Coorg Courts Act and now in force shall (so far as they are consistent with this Regulation) be deemed to have been respectively prescribed, framed, settled, made and conferred hereunder.

II.—Civil Justice.

3. Besides the Courts established under any other enactment for the time being in force, there shall be five[a] grades of Civil Courts in the Province of Coorg (namely) :— Grades of Courts.

(1) the Court of the Subahdar;

[b] (2) the Court of the Munsif;

[c] (3) the Court of the Assistant Commissioner;

[c] (4) the Court of the Commissioner;

[c] (5) the Court of the Judicial Commissioner.

The Court of the Judicial Commissioner and all Subahdars' Courts established in the said Province when this Regulation comes into force shall be deemed to have been established under this Regulation.

4. The Governor General in Council may from time to time appoint the Judicial Commissioner, the Commissioner and Assistant Commissioners, and suspend or remove any officer so appointed : Appointment and removal of Judicial Commissioner, Commissioner and Assistant Commissioners.

Provided that the Judicial Commissioner and the Subahdars holding office
XXV of 1868. under the Coorg Courts Act at the time this Regulation comes into force shall be deemed to have been appointed under this Regulation.

5. The Chief Commissioner may from time to time appoint Subahdars [d]and Munsifs[d] and suspend or remove them. Appointment and removal of Subahdars and Munsifs.

[e]Every person appointed by the Chief Commissioner to be a Subahdar or Munsif shall, in the taluq or other local area to which he may from time to time be posted, have the powers of a Court of a Subahdar or Munsif, as the case may be.

6. The Chief Commissioner may, with the previous sanction of the Governor General in Council, fix, and with the like sanction from time to time vary, the number of Courts of Subahdars, Munsifs [f] and Assistant Commissioners. Number of Courts of first and second grades.

7. The Chief Commissioner may, with the previous sanction of the Gov- Power to fix local limits

[a] "Five" was substituted for "four" by Reg. I of 1885, s. 3, printed *infra*, p. 138.
[b] This clause was inserted by Reg. I of 1885, s. 3.
[c] These numbers are altered in accordance with Reg. I of 1885, s. 3.
[d-d] These words were added by Reg. I of 1885, s. 4.
[e] This paragraph was added by Reg. I of 1885, s. 5.
[f] The word "Munsifs" was added by Reg. I of 1885, s. 6.

of original jurisdiction of Courts of first and second grades.

ernor General in Council, by notification in the local official Gazette, fix, and with the like sanction by like notification, from time to time, vary, the local limits of the original jurisdiction of each of the Courts of Subahdars, Munsifs[a] and Assistant Commissioners.

Judicial Commissioner's Court, High Court.

8. The Court of the Judicial Commissioner shall, for the purposes of all enactments relating to civil jurisdiction for the time being in force, be deemed to be the High Court for the Province of Coorg.

Commissioner's Court, principal Civil Court of original jurisdiction.

The Court of the Commissioner shall for the said Province be deemed to be the principal Civil Court of original jurisdiction and the District Court within the meaning of the Code of Civil Procedure.[b] XIV of 1882.

Control over Civil Courts.

The control over all the Civil Courts in the Province of Coorg is vested in the Commissioner, subject to the general control of the Judicial Commissioner.

Original jurisdiction of different grades of Courts.

9. Subject to the provisions of the Code of Civil Procedure, section 15[c]—

(*a*) the jurisdiction of the Commissioner extends to all original suits;

(*b*) the jurisdiction of an Assistant Commissioner extends to all original suits in which the amount or value of the subject-matter in dispute does not exceed three thousand rupees;

[d] (*c*) the jurisdiction of a Munsif extends to all original suits in which the amount or value of the subject-matter in dispute does not exceed five hundred rupees;

(*d*) the jurisdiction of a Subahdar extends to all original suits in which the amount or value of the subject-matter in dispute does not exceed one hundred rupees:

Provided that the Chief Commissioner may, from time to time, by notification in the official Gazette, extend the jurisdiction of any Munsif or Subahdar to all original suits in which the amount or value of the subject-matter in dispute does not exceed, in the case of a Munsif, one thousand, and in the case of a Subahdar two hundred rupees.[d]

Power to confer certain jurisdiction on Parpatigars.

10. The Chief Commissioner may from time to time invest any Parpatigar with power to try and determine suits for money due on bond or other

[a] The word "Munsifs" was added by Reg. I of 1885, s. 6, printed *infra*, p. 138.

[b] This reference should now be read as applying to Act XIV of 1882—see section 3 of that Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department)

[c] The reference to s. 15 of Act X of 1877 should now be read as applying to s. 15 of Act XIV of 1882—see s. 3 of the latter Act.

[d-d] These clauses were substituted for the original clause (*c*) by Reg. I of 1885, s. 7, printed *infra*, p. 138.

contract, or for rent, or for moveable property, or for the value of such property, or for damages, when the amount or value of the subject-matter does not exceed fifty rupees, and may from time to time define the local limits within which such power shall be exercised.

The Chief Commissioner may at any time withdraw all or any of the powers conferred under this section.

11. Subject to any law for the time being in force, appeals shall lie as follows:— Appeals.

(*a*) from the decrees and orders of Subahdars, and of Parpatigars invested with jurisdiction under section 10—to the Assistant Commissioner;

(*b*) from the decrees and orders of [a]Munsifs and[a] Assistant Commissioners in original suits and proceedings—to the Commissioner;

(*c*) from the decrees and orders of the Commissioner in original suits and proceedings—to the Judicial Commissioner.

12. [*Appeals from decrees, &c., passed before Regulation came into force.*] *Repealed by Regulation I of 1893.*

2. [b] **12A.** To section 585 of the Code of Civil Procedure[c] the following shall be added, namely:— Addition to section 585, Code of Civil Procedure.

"Provided that in any case in which the decision of the Court of the Commissioner or Assistant Commissioner passed in appeal reverses or modifies the decree or order of the Court of original jurisdiction and is not declared by any law for the time being in force to be final, the Court of the Judicial Commissioner may admit a second appeal if, on a perusal of the grounds of appeal and of copies of the judgments of the lower Courts, it is of opinion that a further consideration of the case is requisite for the ends of justice."

[b] **12B.** In section 586 of the same Code[c], for the word "five" the word "three" shall be substituted; and to the same section the following shall be added, namely:— Amendment of section 586, Code of Civil Procedure.

"Provided that the Court of the Judicial Commissioner may admit a second appeal in such suits when the amount or value exceeds one hundred rupees, if, on a perusal of the grounds of appeal and of copies of the judg-

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[a a] These words were added by Reg. I of 1885, s. 8, printed *infra*, p. 138.
[b] Ss. 12A and 12B were added by Reg. I of 1885, s. 9.
[c] For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.

ments of the lower Courts, it is of opinion that a further consideration of the case is requisite for the ends of justice."

Limitation for appeals to Assistant Commissioner and Commissioner.

13. The period of limitation for the presentation of appeals to the Courts of the Assistant Commissioner and Commissioner shall be the same as that prescribed by the Indian Limitation Act, 1877,[a] for the presentation of appeals to the Court of the District Judge. XV of 1877.

Local limits within which Courts of the Assistant Commissioners to exercise appellate jurisdiction.

14. The Commissioner may, with the previous sanction of the Chief Commissioner, define the local limits of the appellate jurisdiction of each of the Courts of the Assistant Commissioners, and with the like sanction from time to time vary the local limits so defined.

Distribution of business among subordinate Courts.

15. The Commissioner may direct the business in the Courts subordinate to him to be distributed among such Courts in such way as he thinks fit:

Provided that no Court shall try any suit in which the amount or value of the subject-matter exceeds the jurisdiction conferred on it under this Regulation.

Presiding officer of Court not to try suit in which he is interested.

16. Except with the consent of the parties, no presiding officer of any Court having jurisdiction under this Regulation shall try any suit, appeal or proceeding to or in which he is a party or personally interested, or any appeal against a decree or order passed by himself, or shall adjudicate upon any matter connected with or arising out of such suit, appeal or proceeding.

Procedure when officer subordinate to Judicial Commissioner is interested, &c.

17. When any such suit, appeal or proceeding comes before the presiding officer of any Court subordinate to the Judicial Commissioner, he shall forthwith, unless all the parties request him to proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with an explanation of his reasons for so doing.

Such Court shall thereupon try the case itself, or transfer it for trial to a subordinate Court of competent jurisdiction.

Procedure when Judicial Commissioner is interested, &c.

When an appeal is preferred to the Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he is personally interested, he shall, unless all the parties request him to proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Judicial Commissioner to try the case himself, or shall transfer it to the High Court at Madras for disposal, or appoint an officer to be an Additional Judicial Commissioner for the disposal thereof.

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[a] For Act XV of 1877, see the revised edition, as modified up to 1st December, 1892, published by the Legislative Department.

III.—Criminal Justice.

18. The Court of the Judicial Commissioner shall, except with reference to proceedings against European British subjects or persons charged jointly with European British subjects, be deemed to have, throughout the Province of Coorg, the powers conferred by the Code of Criminal Procedure, 1882,[a] or by any other enactment relating to criminal jurisdiction for the time being in force in the said Province, on a High Court, other than a High Court established by Royal Charter.

X of 1882.

Judicial Commissioner's Court to be deemed to be, except as regards European British subjects, High Court for Coorg.

IV.—Miscellaneous.

19. The Judicial Commissioner may from time to time make rules regulating the appointment, suspension, removal and punishment of the ministerial officers of all the Courts subordinate to him.

Judicial Commissioner empowered to make rules as to ministerial officers.

Subject to such rules, the presiding officer of any Court may punish any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office with fine which may extend to one month's salary of the offender.

Power to presiding officer to fine ministerial officers of Court.

Any fine imposed under this section shall, if the order imposing it so directs, be recovered from the offender's salary.

20. The Judicial Commissioner may, for the purpose of the exercise of any jurisdiction conferred on him under this Regulation, hold his Court at such place either within or without the limits of the Province of Coorg as he from time to time thinks fit.

Judicial Commissioner empowered to hold Court within or without limits of Coorg.

21. [*Pending proceedings.*] *Repealed by Regulation I of 1893.*

REGULATION No. I OF 1885.

(*Published in the Gazette of India of 28th March, 1885, Part I, page 225, and in the Coorg District Gazette of 1st May, 1885, Part I, page 43*)

A Regulation to amend the Coorg Courts Regulation, 1881.[b]

II of 1881.

WHEREAS it is expedient to amend the Coorg Courts Regulation, 1881;[b] It is hereby enacted as follows:—

1. (*1*) This Regulation may be called the Coorg Courts Regulation, 1885; and

Short title and commencement.

(*2*) It shall come into force at once.

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[a] This reference to Act X of 1872 is altered in accordance with Act X of 1882, s. 3. (For X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

[b] Printed *supra*, p. 132.

Repeal of certain words in section 2 of Regulation II of 1881.

2. In section 2 of the Coorg Courts Regulation, 1881,[a] the words "and section 586 of the Code of Civil Procedure" shall be repealed, and section 586 of the said Code[b] shall be revived. II of 1881. XIV of 1882.

Amendment of section 3.

3. In section 3 of the said Regulation, for the word "four" the word "five" shall be substituted; after the clause "(*1*) the Court of the Subahdar" the clause "(*2*) the Court of the Munsif" shall be inserted; and the present clauses (*2*), (*3*) and (*4*) shall be re-numbered (*3*), (*4*) and (*5*).

Amendment of section 5.

4. In section 5 of the said Regulation, after the word "Subahdars" the words "and Munsifs" shall be added.

Addition to section 5.

5. To section 5 of the said Regulation the following shall be added:—

[Printed *supra*, p. 133.]

Amendment of sections 6 and 7.

6. In sections 6 and 7 of the said Regulation, after the word "Subahdars" the word "Munsifs" shall be added.

Substitution of new clauses for clause (*c*) of section 9.

7. In section 9 of the said Regulation, for clause (*c*) the following clauses shall be substituted:—

[Printed *supra*, p. 134.]

Amendment of section 11.

8. In section 11, clause (*b*), of the said Regulation, before the words "Assistant Commissioners" the words "Munsifs and" shall be added.

New sections added after section 12.

9. After section 12 of the said Regulation the following sections shall be added:—

[Printed *supra*, p. 135.]

THE COORG REVENUE REGULATION, 1889.

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Preliminary.

SECTIONS.

1. Title, extent and commencement.
2. Repeal.
3. Interpretation-clause.

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[a] Printed *supra*, p 132.
[b] For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.

Security for Revenue.

SECTIONS.

4. Security for the revenue.

Time for Payment of Revenue.

5. Time for payment of revenue.

Arrear of Revenue.

6. Arrear of revenue.

Recovery of Arrears.

7. Recovery of arrears.

Time for Issue of Process.

8. Time for issue of process.

Notice of Demand.

9. Form and service of notice of demand.

Summons to Defaulter.

10. Summons to defaulter.

Distraint and Sale of Moveable Property.

11. Time for making distraint.
12. Procedure in distraint.
13. Withdrawal of distraint on tender of arrear.
14. Disposal of distrained crops.
15 Distraint of crops of a tenant.
16. Treatment of distrained property.
17. Responsibility for distrained property
18. Distraint not to be excessive.
19. Protection of necessary cattle, seed-grain and implements from distraint.
20. Time for making distraint.
21. Fraudulent transfer of property to prevent distraint.
22. Claims to property distrained and sold.
23. Penalty for forcibly or clandestinely taking away distrained property.
24. Forcing of houses by distrainer.
25. Forcing of outer doors and female apartments by distrainer.
26. Punishment for unlawful entry.
27. Proclamation of sale.
28. Conduct of sale.
29. Payment of purchase-money.

Attachment and Sale of Defaulter's Immoveable Property.

SECTIONS.

30. Time for making attachment.
31. Procedure in attachment.
32. Power to assume management of attached property.
33. Notice of assumption of management.
34. Duties of managing agent.
35. Liability of agent to prosecution or suit.
36. Effect of existing engagements between defaulter and tenants.
37. Payments by tenants.
38. Withdrawal of attachment on liquidation of arrear.
39. Release of property by person interested.
40. Power of Commissioner to order sale of attached property.
41. Mode of sale.
42. Proclamation of sale.
43. Payment of purchase-money.
44. Agents to name their principals.
45. Tender of arrear up to sunset of last office-day before sale.
46. Report of sale to Commissioner.
47. Application to set aside sale.
48. Order confirming or setting aside sale.
49. Refund of purchase-money on setting aside of sale.
50. Fresh notice after postponement or on re-sale.
51. On sale becoming absolute, possession and certificate to be granted to purchaser.
52. Application of proceeds of sale.
53. Effect on incumbrances of sale of property for an arrear due in respect thereof.
54. Effect on incumbrances of sale of property for a sum other than an arrear due in respect thereof.
55. Effect of sale on lands held revenue-free or at favourable rates.
56. Provisions with respect to rent and profits of property sold.
57. Sale of part only of property.
58. Postponement of sale on tender of security.

Appointment of Officers.

59. Appointment of officers.

Application of Regulation.

60. Mode of enforcing payment by sureties.
61. Recovery of fees and other dues.

Supplemental Provisions.

62. Receipts for revenue.
63. Bar to jurisdiction of Civil Courts with respect to proceedings in assessment.
64. Suits by persons aggrieved by other proceedings.

REGULATION No. I OF 1889.

(*Received the Governor General's assent on the 20th February, 1889; published in the Gazette of India of 23rd idem, Part I, page 99, and in the Coorg District Gazette of 1st May, 1889, Part I, page 17.*)

A Regulation to declare and amend the law relating to the Collection of Revenue in the Province of Coorg.

WHEREAS it is expedient to declare and amend the law relating to the collection of revenue in the province of Coorg; It is hereby enacted as follows:—

Preliminary.

1. (*1*) This Regulation may be called the Coorg Revenue Regulation, 1889. Title, extent and commencement.

(*2*) It extends to the territories administered by the Chief Commissioner of Coorg and subject to the provisions of the Statute 33 Victoria, chapter 3,[a] section 1; and

(*3*) It shall come into force on such day[b] as the Chief Commissioner may, by notification in the local official Gazette, appoint in this behalf.

2. (*1*) Regulation III of 1880 (*to declare and amend the law relating to the collection of the public revenue in the Province of Coorg*) is hereby repealed. Repeal.

(*2*) But all instalments fixed, appointments made and powers conferred under that Regulation shall, so far as may be, be deemed to have been respectively fixed, made and conferred under this Regulation.

3. In this Regulation, unless there is something repugnant in the subject or context,— Interpretation-clause,

(*1*) "revenue" includes land-revenue, cesses and muhtarifa, and every other sum payable to the Government in accordance with law, contract or local usage in respect of the occupancy of land or the supply of water to it for irrigation:

(*2*) "landholder" includes any person who is bound by law, contract or local usage to pay revenue direct to the Government:

(*3*) "tenant" means a person who holds under a landholder, and is, or but for a special contract would be, liable to pay rent to him:

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[a] Printed in the Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 878.
[b] The 1st July, 1889—see Coorg District Gazette, 1889, Pt. I, p. 33.

(*4*) "moveable property" includes growing crops and ungathered products of land; and

(*5*) "Commissioner" means the Commissioner of Coorg.

Security for Revenue.

Security for the revenue.

4. The land, the buildings upon it and its products shall be regarded as the security for the revenue.

Time for Payment of Revenue.

Time for payment of revenue.

5. Revenue shall be paid to the Commissioner, or to an officer empowered by the Commissioner in this behalf, on or before the day on which it falls due according to the kistbandi or other engagement, or where no particular day is fixed then within the time when the payment falls due according to local usage:

Provided that the Chief Commissioner may, by notification in the local official Gazette, alter and fix the amount of the several kists or instalments and the dates at which they are to become payable.

Arrear of Revenue.

Arrear of revenue.

6. (*1*) When an instalment or a part of an instalment of revenue is not paid on or before the day prescribed by or under the last foregoing section, the Commissioner may at once levy the instalment, or the part of the instalment, as the case may be, in addition to such charge by way of penalty and as costs of process as may be authorized by rules to be made by the Chief Commissioner with the previous sanction of the Governor General in Council.

(*2*) Any sum leviable under sub-section (*1*) shall, for the purposes of this Regulation, be deemed to be an arrear, and the landholder from whom it is leviable to be a defaulter or revenue-defaulter.

Recovery of Arrears.

Recovery of arrears.

7. An arrear may be recovered by any one or more of the following processes, namely:—

(*a*) by serving a written notice of demand on the defaulter;

(*b*) by serving a summons on the defaulter requiring him, in default of payment of the arrear on or before a day to be specified in the summons, to appear before, and explain the default to, the Commissioner, or the Subahdar of the taluq in which the arrear accrued, as the summons may direct;

(*c*) by distraint and sale of any moveable property belonging to the defaulter, or of the growing crops or ungathered products of the land in respect of which the arrear is due, whether those crops or products do or do not belong to the defaulter;

(*d*) by attachment, or by attachment and sale, of any land or other immoveable property belonging to the defaulter.

Time for Issue of Process.

Time for issue of process.

8. (*1*) A notice of demand may be issued on or after the day following that on which the arrear became leviable.

(*2*) Except by special written order of the Commissioner, a summons under clause (*b*), or process of distraint or attachment under clause (*c*) or clause (*d*), of the last foregoing section, shall not be issued for the recovery of an arrear unless a notice of demand for the arrear or for some part thereof has been served on the defaulter at least seven days previously.

Notice of Demand.

Form and service of notice of demand.

9. (*1*) A notice of demand shall be in writing signed by the officer issuing it, and shall set forth—

(*a*) the name of the defaulter;

(*b*) the land in respect of which the arrear is due;

(*c*) the amount of the arrear and particulars thereof;

(*d*) the time allowed for payment of that amount; and

(*e*) a warning to the defaulter that, if he fails to pay the amount within that time, he will be liable to be summoned as a defaulter and to have his moveable property distrained and his land or other immoveable property attached.

(*2*) The time set forth in the notice as the time allowed for payment of the arrear shall be fixed with reference to the distance of the land in respect of which the arrear is due from the place at which the payment is to be made.

(*3*) A notice of demand shall be served by delivering a copy to the defaulter or to some adult male member of his family at his usual place of residence, or to his authorized agent, or by posting a copy thereof on some conspicuous part of his last known place of residence or on some conspicuous part of the land in respect of which the arrear is due.

Summons to Defaulter.

Summons to defaulter.

10. (*1*) At any time after the expiration of seven days from the date of the

service of a notice of demand, or sooner if the Commissioner makes a special written order in this behalf, a summons may be issued to a defaulter requiring him, in default of payment of the arrear on or before a day to be specified in the summons, to appear before, and explain the default to, the Commissioner, or the Subahdar of the taluq in which the arrear accrued, as the summons may direct.

(*2*) The summons shall set forth the matters stated in clauses (*b*) and (*c*) of section 9, sub-section (*1*), and shall be served in the manner prescribed for the service of a notice of demand.

Distraint and Sale of Moveable Property.

Time for making distraint

11. When the arrear has not been paid pursuant to the terms of the notice of demand, and no arrangement for securing the payment thereof has been entered into to the satisfaction of the Commissioner, or of an officer empowered by the Commissioner in this behalf, the Commissioner, or an officer empowered by the Commissioner in this behalf, may order the distraint and sale of such moveable property as is described in clause (*c*) of section 7.

Procedure in distraint.

12. (*1*) An order under the last foregoing section shall set forth—

(*a*) the matters stated in clauses (*b*) and (*c*) of section 9, sub-section (*1*), and

(*b*) a warning to the defaulter that such property as may be distrained will be brought to sale under this Regulation unless the arrear is discharged.

(*2*) A copy of the order signed by or on behalf of the officer making it shall be given to the distrainer and shall be his authority for making the distraint, unless, before it is made, the defaulter pays the arrear to him or satisfies him that the arrear has been paid to the Government.

(*3*) As soon as may be after the making of a distraint, and at the latest within three days thereafter, the distrainer shall serve on the defaulter a copy of the order with an endorsement thereon specifying the property which has been distrained and the place where that property is.

(*4*) The copy so endorsed shall be served on the defaulter in the manner prescribed for the service of a notice of demand.

(*5*) When the copy of the order has been so served, the distrainer shall transmit an inventory of the property distrained to the nearest officer empowered under this Regulation to sell distrained property in order that the property may be publicly sold for the discharge of the arrear.

13. Where a defaulter tenders to the distrainer payment of the arrear after the distraint of his property and before the sale thereof, the distrainer shall receive the arrear and forthwith release the property. **Withdrawal of distraint on tender of arrear.**

14. (*1*) When a distrainer attaches growing crops or ungathered products of land, he may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper places until they are sold. **Disposal of distrained crops.**

(*2*) In the latter case the expense of reaping or gathering and storing the crops or products shall be defrayed by the owner upon his redeeming them, or from the proceeds of the sale in the event of the crops or products being sold.

15. (*1*) When growing crops or ungathered products belonging to a tenant have been distrained for the recovery of an arrear, the tenant may pay the arrear and deduct the amount thereof from any rent due from him, then or afterwards, to the defaulter. **Distraint of crops of a tenant.**

(*2*) When crops or products belonging to a tenant have been sold, the tenant may deduct the value thereof from any rent due from him, then or afterwards, to the defaulter in respect of the land on which the crops or products were grown.

16. (*1*) A distrainer shall not work distrained cattle or suffer them to be worked, or make use of distrained goods or effects or suffer them to be made use of. **Treatment of distrained property.**

(*2*) Necessary food for distrained cattle shall be provided by the distrainer, and the cost thereof shall be defrayed by the owner upon his redeeming the cattle or from the proceeds of the sale in the event of the cattle being sold.

17. (*1*) Where destrained property is lost or damaged by reason of necessary precautions for its due preservation not having been taken, or of its having been worked or made use of in contravention of the last foregoing section, the amount of the loss or damage shall, on the application of the owner of the property, be determined by the Commissioner and be recoverable by him under this Regulation as an arrear from the officer whose neglect or act occasioned the loss or damage, and the amount when recovered shall be paid to the person damnified. **Responsibility for distrained property.**

(*2*) An order refusing an application under sub-section (*1*), or determining on such an application the amount of any loss or damage, shall, subject to the result of any appeal preferred to the Chief Commissioner within thirty days from the date of the order, be final.

18. The property distrained shall be as nearly as possible proportionate to the amount of the arrear. **Distraint not to be excessive.**

Protection of necessary cattle, seed-grain and implements from distraint.

19. (*1*) Such cattle, seed-grain and agricultural implements as may be required by the defaulter for the purpose of cultivation shall be exempt from distraint.

(*2*) If a question arises whether or not any cattle seed-grain or implements should be held to be exempt from distraint under sub-section (*1*), it shall be referred to the Commissioner, and his decision thereon shall be final.

Time for making distraint.

20. Distraint shall be made after sunrise and before sunset.

Fraudulent transfer of property to prevent distraint.

21. (*1*) Where a defaulter makes a fraudulent transfer of property for the purpose of preventing distraint for an arrear, any Civil Court of competent jurisdiction shall, upon the application of the distrainer and proof of the fraudulent nature of the transfer, cause the property to be delivered up to the distrainer.

(*2*) Nothing in sub-section (*1*) shall be construed to bar a prosecution under section 424 or any other section of the Indian Penal Code.[*] XLV of 1862.

Claims to property distrained and sold.

22. Where any person, not being the defaulter or responsible for the defaulter, claims a right to property distrained, and the distrainer nevertheless causes the property to be sold, the claimant, upon proof of the right in a Civil Court of competent jurisdiction, and in the event of the distrainer being unable to prove the responsibility of the claimant for the arrear for the recovery of which the property was sold, shall recover from the distrainer the full value of the property, with interest, costs and damages, according to the circumstances of the case:

Provided that the title of the Government to the revenue due in respect of any land and to any charge leviable in respect thereof under section 6 shall be held to prevail over any claim to growing crops or ungathered products on the land, or any claim to any crops or products reaped or gathered on the land during the year in respect of which an arrear is due, or any claim to the proceeds of any such growing or reaped crops or ungathered or gathered products in the possession or under the control of the defaulter or of any Court, whether the claim to the crops or products, or to the proceeds thereof, is founded upon a sale, mortgage, decree or otherwise howsoever.

Penalty for forcibly or clandestinely taking away distrained property.

23. (*1*) Where it is proved to the satisfaction of a Civil Court of competent jurisdiction that distrained property has been forcibly or clandestinely taken away, the Court may, upon the application of the distrainer, cause the property to be restored to him.

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[*] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(*2*) Nothing in sub-section (*1*) shall be construed to bar a prosecution under the Indian Penal Code.[a]

XLV of 1860.

24. The distrainer may force open any stable, cow-house, granary, godown, out-house or other like building, and may enter any dwelling-house of which the outer door is open, and break open the door of any room in that dwelling-house, for the purpose of distraining property belonging to a defaulter and deposited therein:

Forcing of houses by distrainer.

Provided that the distrainer shall not, except as provided in the next following section, break open or enter any apartment which is appropriated for the residence of women and by the usage of the country is considered private.

25. (*1*) Where a distrainer is of opinion that the property of a defaulter is deposited in a dwelling-house of which the outer door is shut, or within an apartment which is appropriated for the residence of women and by the usage of the country is considered private, the distrainer shall represent his opinion to the officer in charge of the nearest police-station.

Forcing of outer doors and female apartments by distrainer.

(*2*) On the representation the officer in charge of the station shall send a police-officer to the spot, in presence of whom the distrainer may break open the outer door of the dwelling-house.

(*3*) The distrainer may also, in the presence of the police-officer, after requiring the removal of women from an apartment which is appropriated for their residence and by the usage of the country is considered private, and after furnishing means for their removal in a suitable manner, enter the apartment for the purpose of distraining the defaulter's property deposited therein, but the property, if found, shall be immediately removed from the apartment, which shall thereupon be left free to the former occupants.

26. If, in contravention of the last foregoing section, a distrainer breaks open the outer door of a dwelling-house, or enters an apartment appropriated for the residence of women and by the usage of the country considered private, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months.

Punishment for unlawful entry.

27. (*1*) The officer empowered under this Regulation to sell distrained property shall cause to be posted on the outer door of the defaulter's house, or at the place where the property was distrained, an inventory of the property to be sold, with a notice specifying the place where, and the day and hour on and at which, the property is to be sold, and shall cause proclamation of the intended sale to be made by posting a copy of the inventory and notice

Proclamation of sale.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

on the village meeting-place, or by beat of drum or other customary mode at the place where the arrear accrued and at such other place or places, if any, as the Commissioner, or an officer empowered by the Commissioner in this behalf, thinks fit.

(*2*) The sale shall not take place till after the expiration of fifteen days from the day on which the inventory and notice were posted on the outer door of the defaulter's house or at the place where the property was distrained.

Conduct of sale.

28. (*1*) At the appointed time the property shall be put up in one or more lots as the officer conducting the sale deems advisable, and shall be sold to the highest bidder.

(*2*) Where the purchase-money exceeds the amount of the arrear, the surplus shall be paid to the defaulter.

Payment of purchase-money.

29. (*1*) The property shall be paid for in ready money at the time of sale or as soon after as the officer conducting the sale appoints, and the purchaser shall not be permitted to take away any part of the property until he has paid the purchase-money in full.

(*2*) Where the purchaser fails in the payment of the purchase-money, the property shall be re-sold, and the defaulting purchaser shall be liable for any loss arising, as well as for the expenses incurred, on the re-sale.

(*3*) The loss and expenses may be recovered from the defaulting purchaser as if they were an arrear under this Regulation.

(*4*) Where the property on the re-sale is sold for a higher price than at the former sale, the increase shall be credited to the revenue-defaulter.

Attachment and Sale of Defaulter's Immoveable Property.

Time for making attachment.

30. When the arrear has not been paid pursuant to the terms of the notice of demand, and no arrangement for securing the payment thereof has been entered into to the satisfaction of the Commissioner, or of an officer empowered by the Commissioner in this behalf, the Commissioner, or an officer empowered by the Commissioner in this behalf, may order the attachment of the defaulter's land or other immoveable property.

Procedure in attachment.

31. (*1*) The attachment shall be made by posting a notice thereof on some conspicuous part of the property.

(*2*) The notice shall set forth—

(*a*) the matters stated in clauses (*b*) and (*c*) of section 9, sub-section (*1*);

(*b*) a description of the property attached; and

(*c*) a warning to the defaulter that, unless the arrear is paid on or before a day to be specified in the notice, the property will be liable to be brought to sale.

(*3*) The attachment shall be further notified by beat of drum on the property and by posting a copy of the notice on a conspicuous place in the nad office and publishing the notice, if the Commissioner so directs, in the local official Gazette.

Power to assume management of attached property.

32. (*1*) The Commissioner or other officer ordering the attachment may, at the time of the attachment or at any time during the attachment, assume the management of the property attached.

(*2*) In that case the Commissioner shall appoint an agent with a proper establishment to manage the property, and shall give the agent a certificate of appointment, with written instructions under his signature, and the expenses of management shall be defrayed out of the income of the property:

Provided that, where the property is too inconsiderable to admit of its being charged with the expense of maintaining an agent and his establishment, it shall be committed to the care of such officer as the Commissioner may appoint, and that officer shall be subject to all the provisions of this Regulation with respect to agents.

Notice of assumption of management.

33. Notice of the assumption of management shall forthwith be served on the defaulter in the manner prescribed for the service of a notice of demand, and shall be notified by beat of drum on the property and by posting a copy of the notice to the defaulter on a conspicuous place in the nad office and publishing the notice, if the Commissioner so directs, in the local official Gazette.

Duties of managing agent.

34. (*1*) The agent shall, during the continuance of the management, collect the rents and profits due, or accruing due, upon the property.

(*2*) He shall also keep accounts of all his receipts and disbursements, and shall submit the accounts and pay over the balance to the Commissioner, or to an officer empowered by the Commissioner in that behalf, monthly or whenever he is required by the Commissioner or officer to do so; and the defaulter shall be at liberty to inspect the accounts at all reasonable times, and to take copies thereof at his own expense without fee.

Liability of agent to prosecution or suit.

35. The defaulter may proceed by prosecution or suit against the agent in respect of any criminal or illegal act done by him to the injury of the defaulter or his property; and tenants shall have the same remedies against the agent in respect of any act done by him as they would have had against the defaulter if the act had been done by the defaulter.

Effect of existing engagements between defaulter and tenants.

36. (*1*) Engagements made between the defaulter and his tenants shall, subject to the provision of sub-section (*2*), be binding upon the Government during the attachment.

(*2*) Engagements so made—

(*a*) collusively with a view to defeat or delay the effect of the attachment, or

(*b*) by way of lease at rates lower than the usual rates and not in good faith for the erection of factories or buildings or for the purpose of bringing waste-land into cultivation, or

(*c*) after the attachment,

shall be void against the Government if the Commissioner so declares:

Provided that any person aggrieved by a declaration of the Commissioner under this sub-section may institute a suit against the Government to establish the validity of the engagement, and that all charges and incumbrances upon property which has been attached shall be postponed to the payment of the revenue and of expenses consequent on the accrual of any arrear thereof.

Payments by tenants.

37. Payments made by tenants before the date of the promulgation of the notice of the assumption of management to the defaulter, or to any person on his behalf, on account of rent or profits actually due at the time when the payments were made shall be valid against the Government; and all such payments made after the date of the promulgation of that notice, or falling due after but made before that date, shall be void against the Government, which may recover, as arrears of rent, the full amount of the payments from the tenants by whom they were made, leaving those tenants to sue the defaulter in a Civil Court.

Withdrawal of attachment on liquidation or arrear.

38. All sums received from the property attached, after payment of the current revenue and expenses of management, shall be carried to the credit of the defaulter in discharge of the arrear due at the time of assumption of management; and, as soon as the arrear has been so liquidated, the attachment shall be withdrawn and a full account rendered to the defaulter of all receipts and disbursements during its continuance.

Release of property by persons interested.

39. Any person claiming an interest in property which has been or is about to be attached for the recovery of an arrear may obtain its release by paying the arrear and, where the property has been attached and expenses of management have been incurred, those expenses; and any such payment, if made by a tenant, may be deducted from any rent then or afterwards due from him to the defaulter, and, if made by a mortgagee or other incumbrancer,

shall constitute a debt from the defaulter to him and be a charge upon the property, but shall only take priority over other charges according to the date at which the payment was made.

40. If the Commissioner is of opinion that immoveable property attached under this Regulation, whether or not management thereof has been assumed, should be sold, he may order the sale, and thereupon the provisions of the next following sections shall apply. Power of Commissioner to order sale of attached property.

41. (*1*) The sale of the property shall be by public auction to the highest bidder. Mode of sale.

(*2*) The time and place of sale shall be fixed by the Commissioner, or by an officer empowered by the Commissioner in this behalf, and the time may be either before or after the expiration of the year in which the arrear accrued.

(*3*) The Commissioner or officer aforesaid may from time to time postpone the sale.

42. (*1*) Before the sale the Commissioner, or an officer empowered by the Commissioner in this behalf, shall issue a notice thereof in English and in Kanarese, stating whether the property is to be sold for the recovery of an arrear due in respect thereof or for the recovery of any other sum than such an arrear, and specifying the name of the defaulter, the amount of the arrear and the period in respect of which the arrear is due, the position and extent of the property and of the buildings, if any, thereon, the amount of the revenue assessed on the property or on its several parts, and the time, place and conditions of sale. Proclamation of sale.

(*2*) The notice shall be posted for one month at least before the sale on a conspicuous place in the Commissioner's office, the taluq office and the nad office, and on some conspicuous part of the property.

(*3*) In the case of a coffee-estate exceeding fifty acres in extent, and in any other case in which it may appear to the Commissioner to be desirable, a notice of the intended sale shall also be published at least one month before the sale in the local official Gazette or in one or more of the newspapers having a circulation in Coorg.

43. (*1*) A sum equal to fifteen per cent. of the purchase-money of the property shall on the day of the sale be deposited by the purchaser with the officer conducting the sale; and, where the remainder of the purchase-money is not paid within thirty days from that day, the sum so deposited shall be liable to forfeiture by order of the Commissioner, and may, by a like order, be Payment of purchase-money.

applied in reduction of the arrear for the recovery of which the sale was held.

(*2*) Where the purchaser refuses or omits to deposit the sum, or to complete within thirty days from the day of the sale the payment of the remaining purchase-money, the property shall be re-sold at the risk and expense of the recusant or defaulting purchaser, and the loss, if any, and expense which may attend his refusal or omission may be recovered from him as if they were an arrear under this Regulation.

(*3*) Where the property on the re-sale is sold for a higher price than at the former sale, the increase shall be credited to the revenue-defaulter.

Agents to name their principals.

44. (*1*) Any person bidding at a sale may be required by the officer conducting the sale to state whether he is bidding on his own behalf or as an agent, and in the latter case to produce a written authority signed by his principal.

(*2*) If the person does not comply with the requisition, his bid may be rejected.

Tender of arrear up to sunset of last office-day before sale.

45. (*1*) The defaulter, or any person acting on his behalf or claiming an interest in the property, may, at any time before sunset on the last office-day preceding the day fixed for the sale, pay to the officer who is to conduct the sale the full amount of the arrear and of the expenses of management, if any, and thereupon the sale shall be stayed.

(*2*) Any such payment made by a tenant, or by a mortgagee or other incumbrancer, shall be deemed to be a payment under section 39.

Report of sale to Commissioner.

46. Every sale of immoveable property under this Regulation shall be reported to the Commissioner by the officer conducting it.

Application to set aside sale.

47. (*1*) At any time within thirty days from the date of the sale application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it:

(*2*) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

Order confirming or setting aside sale.

48. (*1*) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale; and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(*2*) An order of the Commissioner setting aside a sale under this section shall be final.

(*3*) An order of the Commissioner confirming a sale under this section shall be final—

(*a*) on the expiration of thirty days from the date thereof if an appeal therefrom is not preferred to the Chief Commissioner within that period;

(*b*) on the disposal of an appeal so preferred when the appellate order of the Chief Commissioner confirms the order of the Commissioner.

Refund of purchase-money on setting aside of sale.

49. Whenever a sale of property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Fresh notice after postponement or on re-sale.

50. A sale made after a postponement, and a re-sale consequent on a purchaser's default under section 43 or on the setting aside of a sale, shall be made after the issue and promulgation of a fresh notice in the manner hereinbefore prescribed for the sale.

On sale becoming absolute, possession and certificate to be granted to purchaser.

51. (*1*) After an order of the Commissioner confirming a sale has become final in manner aforesaid, the Commissioner shall put the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(*2*) Till the purchaser is put into possession, the property shall remain under attachment.

(*3*) The certificate shall be deemed a valid transfer of the property, but need not be registered as a conveyance.

(*4*) Any suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser shall be dismissed with costs.

(*5*) The person named in the certificate as purchaser of any immoveable property shall be liable for all instalments of revenue falling due in respect of the property after the order confirming the sale has become final.

Application of proceeds of sale.

52. (*1*) When the purchaser has been put into possession of the property sold, the proceeds of the sale shall be applied in the first place to the payment of any arrears due to the Government from the defaulter on the day on which the order confirming the sale became final, whether those arrears are of revenue or of sums recoverable as arrears of revenue or land-revenue, and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property was owned by more than one person, then to those persons either collectively or according to the extent of their respective interests, as the Commissioner thinks fit.

(*2*) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

Effect on incumbrances of sale of property for an arrear due in respect thereof.

53. (*1*) Subject to the provisions of this section with respect to engagements made between the defaulter and his tenants, immoveable property brought to sale under this Regulation for the recovery of an arrear due in respect thereof shall be sold free of all incumbrances, and all grants and contracts previously made by any person other than the purchaser in respect of the property shall become void as against the purchaser.

(*2*) The provisions of section 36 with respect to the validity or invalidity, as against the Government, of such engagements as are referred to in that section shall, so far as they can be made applicable, apply, as against the purchaser, to such engagements as have been made between the defaulter and his tenants:

Provided that an engagement which has not before the sale been declared under that section to be void shall not be liable to be set aside otherwise than by suit at the instance of the purchaser.

Effect on incumbrances of sale of property for a sum other than an arrear due in respect thereof.

54. When immoveable property is brought to sale under this Regulation for the recovery of any other sum than an arrear due in respect thereof, the interests of the defaulter alone therein, as those interests existed immediately before the attachment of the property was notified, shall be sold, and no incumbrances created, or grants or contracts made, by him in good faith before the notification of the attachment shall be rendered invalid by the sale.

Effect of sale on lands held revenue-free or at favourable rates.

55. When jama or umbli land, or other land held wholly or partially free of revenue and not being devarajodi land, is sold under this Regulation, whether for the recovery of an arrear due in respect thereof or for the recovery of any other sum, the privileges attaching to the tenure of the land with respect to the assessment of land-revenue shall be extinguished by the sale.

Provisions with respect to rent and profits of property sold.

56. (*1*) The person named in a certificate as purchaser of any immoveable property shall be entitled to any rents or profits falling due in respect of the property after the day on which the order confirming the sale has become final, notwithstanding that payment thereof may have been made on or before that day.

(*2*) So long after that day as any demand of the Government against the defaulter or the property remains unsatisfied, the Government shall be entitled to any arrears of rent or profits which fell due in respect of the property on or before that day.

(*3*) When all such demands have been satisfied, the defaulter shall be entitled to such of those arrears as may then be outstanding, and may recover

them by any process, except attachment of crops or products, which may be used by a landholder for the recovery of arrears of rent or profits.

(*4*) The defaulter shall also be entitled to any balance of the rents or profits of the property which, after satisfaction of all such demands as aforesaid, may remain in the possession of the Government after the day on which the order confirming the sale has become final.

57. Subject to the foregoing provisions of this Regulation, the whole or any part of the immoveable property of a defaulter may be sold in discharge of an arrear: Sale of part only of property.

Provided that, where the property consists of a farm which is readily divisible into compact blocks, no more of the property shall be sold than may be sufficient to discharge the arrear with expenses of management, if any.

58. (*1*) If a defaulter tenders security, the Commissioner, or an officer empowered by the Commissioner in this behalf, may accept it, and postpone the sale of the defaulter's immoveable property upon such conditions and till such time as the Commissioner or officer may appoint. Postponement of sale on tender of security.

(*2*) In the event of default being made in the performance of any of those conditions, the Commissioner or officer may, after the issue and promulgation of a fresh notice as required by section 50, sell the property and proceed against the defaulter or his surety or both for the recovery of any balance of the arrear and expenses of management, if any.

Appointment of Officers.

59 (*1*) Subject to the control of the Chief Commmissioner, the Commissioner shall appoint the officers by whom notices, summonses and other processes are to be issued, and by whom they are to be served or otherwise executed. Appointment of officers.

(*2*) The Chief Commissioner may prescribe the officers, by name or by class, whom the Commissioner may empower to distrain, attach or sell property under this Regulation, and may, if necessary, appoint officers for the purpose.

(*3*) The officers referred to in this section shall be subject to the control of the Commissioner.

Application of Regulation.

60. All the remedies prescribed by this Regulation in the case of a defaulter may be employed against his surety, and the Commissioner, or an officer empowered by the Commissioner in this behalf, may enforce those remedies Mode of enforcing payment by sureties.

simultaneously with, or either previously or subsequently to, their enforcement against the principal:

Provided that no more than the arrear and expenses of management, if any, shall be realized from both.

Recovery of fees and other dues.

61. Fees or other dues payable by any person to or on behalf of village-servants employed on revenue or police duties may be recovered in the same manner as an arrear under this Regulation.

Supplemental Provisions.

Receipts for revenue.

62. (*1*) Every person making a payment of revenue shall be entitled to a receipt therefor signed by the Commissioner or by an officer empowered by the Commissioner in this behalf.

(*2*) The receipt shall state the name of the person making the payment and the subject-matter in respect of which the payment is made, and, in the case of land-revenue, shall describe the land on which the revenue was due and set forth the names of the persons entered in respect thereof in the settlement account.

Bar to jurisdiction of Civil Courts with respect to proceedings in assessment.

63. No Civil Court shall take into consideration or decide any question as to the rate of land-revenue payable to the Government, or as to the amount of assessment fixed or to be hereafter fixed by the Government.

Suits by persons aggrieved by other proceedings.

64. (*1*) Except as provided by this Regulation, nothing therein shall be construed to prevent a person deeming himself aggrieved by any proceeding thereunder from suing in a Civil Court for redress.

(*2*) Such a suit must be instituted within six months from the date of the accrual of the cause of action, and not afterwards.

THE COORG TEMPLE FUNDS MANAGEMENT REGULATION, 1892.

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THE SCHEDULE.

REGULATION No. IV OF 1892.

(*Received the Governor General's assent on the 14th November, 1892; published in the Gazette of India of 3rd December, 1892, Part I, p. 702, and in the Coorg District Gazette of 2nd January, 1893, Part I, p. 1.*)

A Regulation for the Management of Temple Funds in Coorg.

WHEREAS certain temples and religious institutions in Coorg are in receipt of annual cash allowances from the Government;

And whereas it is necessary to provide for the due application of such allowances, and of certain other moneys of which the said temples and religious institutions are in receipt or possession;

It is hereby enacted as follows :—

1. (*1*) This Regulation may be called the Coorg Temple Funds Management Regulation, 1892. Title, application and commencement.

(*2*) It applies to the temples and institutions named in the schedule and to such other temples or institutions as the Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the Coorg District Gazette, from time to time direct ; and

(*3*) It shall come into force on such day [a] as the Chief Commissioner may, by a like notification, appoint.

Interpretation clause.

2. In this Regulation the words " funds " and " said funds " mean the muzarayi funds, that is to say :—

(*a*) the cash allowances for the time being paid by the Government for the maintenance of the said temples and institutions ;

(*b*) all bequests, gifts and offerings to or for the said temples and institutions ;

(*c*) all funds invested or in hand to the credit of the said temples and institutions at the commencement of this Regulation ; and

(*d*) the income accruing from all lands which have been or may hereafter be granted either partially or wholly rent-free for the said temples and institutions.

Committee of management and its constitution.

3. The said funds shall be under the management and control of a committee, which shall consist of fifteen members appointed or elected as hereinafter provided.

Appointment and election of members of committee.

4. The Chief Commissioner shall appoint the members of the first committee from among the persons qualified for election as hereinafter provided, and shall divide the members so appointed into three groups of five members each, and shall so fix the term of office of each member that one member from each of such groups shall retire annually commencing from the end of the first year. All vacancies so caused and all other vacancies shall be filled by election.

Power of Chief Commissioner to make rules.

5. The Chief Commissioner shall from time to time, as occasion may require, make rules regulating—

(*a*) the division of the said temples and institutions into three groups for the purpose of electing five members each ;

(*b*) the proportion of Coorgs to non-Coorgs in the representatives to be elected for each group ;

(*c*) the qualifications of electors and candidates for election ;

(*d*) the registration of electors,

(*e*) the times of election and the mode of recording votes ; and

(*f*) all other matters necessary for carrying this Regulation into effect :

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[a] The 15th January, 1893—see Coorg District Gazette, 1893, Part I, p. 3.

Provided that no person shall be qualified for election who—

(*1*) is not a male Hindu of not less than twenty-five years of age, and a native of or a settled resident in Coorg;

(*2*) is unable to read and write Kanarese;

(*3*) is an insolvent;

(*4*) has been convicted of any such offence, or has been subjected by a Criminal Court to any such order, as implies, in the opinion of the District Judge, a defect of character which unfits him to be a member:

Provided also that no one shall be qualified to be an elector who is not a male Hindu of not less than twenty-five years of age and a native of or a settled resident in Coorg:

Provided also that, for the purposes of this section, all Hindus who have resided in Coorg for five years immediately before election shall be taken to be settled residents therein.

Eligibility of members of committee for election or re-election.

6. Except as provided in section 4, the term of office of members of committee shall be five years; but an outgoing member shall, if otherwise qualified, be eligible for election or re-election.

Resignation of members of committee.

7. Any member of committee may resign his office by letter to the District Judge, and on his resignation being accepted in writing by the District Judge he shall be deemed to have vacated his office.

Removal of members of committee.

8. The District Judge may from time to time remove any member who refuses or without sufficient excuse neglects to act, or has absented himself from three consecutive meetings of the committee, or who is or has become incapable of acting, or has been declared an insolvent or been convicted of any such offence, or subjected to any such order, as is referred to in clause (*4*) of the first proviso to section 5.

Casual vacancies.

9. Upon the occurrence of any vacancy by the resignation, removal or death of a member, a new member shall be elected to fill the place, and shall hold office for the time for which it was tenable by the member whose place he fills.

Incapacity of member of committee to have personal interest.

10. No member of committee shall be capable of being or acting as manager of, or shall hold any paid office connected with, any of the said temples and institutions.

President of committee.

11. The committee shall elect one of their own body as president.

Quorum.

12. The quorum necessary for the transaction of business at a meeting of the committee shall not be less than five.

President of meetings of committee.

13. At every meeting of the committee the president, if present, shall preside. In his absence the committee shall elect a president for that meeting.

Decision of questions by majority of votes.

14. All questions coming before the committee shall be decided by a majority of the votes of the members present. In the case of an equality of votes the president of the meeting shall have a second or casting vote.

Appointment of managers.

15. (*1*) The committee shall from time to time appoint one or more suitable person or persons to be manager or managers of the said temples and institutions respectively, and may for sufficient cause fine or remove any person so appointed.

(*2*) Nothing in sub-section (*1*) shall be held to empower the committee to refuse without sufficient cause to appoint as manager or managers the person or persons (if any) possessing hereditary or other rightful claims to be so appointed.

(*3*) The amount of fine imposable under sub-section (*1*) shall not exceed one month's pay of the person fined.

Duties of manager, and accounts to be submitted by him.

16. The committee shall prescribe the duties to be performed by such manager or managers respectively, and shall require the production at least once a year of full, complete and separate accounts of receipts and disbursements on behalf of such temples and institutions respectively, in such form as the committee may direct.

Audit of accounts.

17. The District Judge may from time to time call for the accounts of all or any of the said temples and institutions; and may from time to time appoint one or more auditor or auditors to audit the said accounts; and the auditor or auditors so appointed shall receive such remuneration out of all or any of the said funds as the District Judge may direct. The audited accounts shall be published in the Coorg District Gazette, and in such other manner, if any, as the District Judge may direct.

Legal proceedings.

18. The committee may institute legal proceedings in any Civil or Criminal Court in the name of its president, and the cost of such proceedings may, unless the Court shall otherwise order, be debited to the said funds; and any person interested in any of the said temples and institutions, or in the performance of the worship or service thereof, or of the trusts relating thereto, may sue in the District Court the committee in the name of its president, or any particular member or members thereof by name, or any such manager or managers as aforesaid, for any misfeasance, breach of trust or neg-

lect of duty committed in respect of such temple, institution, worship, service or trusts by the committee or by any member or members thereof, or by any person or persons holding office as manager or managers thereunder, as the case may be; and the said Court may direct the specific performance of any act by the committee, and may decree damages with or without costs against the committee, or against such member, members, manager or managers as aforesaid, and may also direct the removal of any member, members, manager or managers; and no person removed by any such order shall be afterwards capable of being elected a member of committee or appointed a manager (as the case may be) without the permission in writing of the District Judge.

Supplement to the last foregoing section.

19. Every person having a right of attendance or having been in the habit of attending at the performance of the worship or service, or having the right or being in the habit of partaking in the benefit of any distributions of alms, at any of the said temples or institutions shall be deemed to be a person interested within the meaning of the last foregoing section.

Arbitration

20. In any civil suit or proceeding under this Regulation, it shall be competent for the District Judge, with or without the consent of either party, to order any matter in dispute in such suit or proceeding to be referred for decision to one or more arbitrator or arbitrators. Whenever any such order shall be made, the provisions of Chapter XXXVII of the Code of Civil Procedure[a] shall (except as herein provided) apply to such order and arbitration.

XIV of 1882.

Leave for institution of suits.

21. (*1*) No suit shall be entertained under this Regulation except in accordance with an order of the District Court to be made upon a preliminary application to that Court for leave to institute such suit.

(*2*) The District Judge, after perusing the application, may either require the attendance of the parties, or may, without hearing the parties, give or refuse leave, or grant leave subject to such conditions as he may deem fit.

Notification of rules, appointments, elections and vacancies.

22. All rules made under this Regulation, and every appointment or election of a member, and every vacancy in the office of a member, shall be notified in the Coorg District Gazette.

Exclusion of Government servants from taking part in management of temples or funds.

23. Except as provided in this Regulation, it shall not be lawful for the Government, or for any officer of the Government in his official capacity, to take any part in the management or control of the said funds or of the said temples and institutions.

Reference of

24. Except as hereinbefore otherwise provided, all disputes arising in re-

[a] For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislativ Department.

disputes to District Judge with appeal to Judicial Commissioner.

pect of any matter provided for by this Regulation or by any rules made thereunder shall be referred to the District Judge, whose decision thereon shall be subject to appeal to the Judicial Commissioner within the prescribed period, and subject thereto shall be final.

THE SCHEDULE.

	Present annual allowance.	
	Rs.	A. P.
1. Onkareshwara pagoda at Merkara	4,435	6 0
2. Onkareshwara choutry	380	0 0
3. Rajahs' tombs	2,000	0 0
4. Tavunad pagoda	2,320	7 5
5. Tavunad choutry	3,956	10 7
6. Brahmadaya at Subramania paid at Merkara	48	0 0
TOTAL	13,140	8 0

REGULATION No. I OF 1893.

(*Received the Governor General's assent on the 6th January, 1893; published in the Gazette of India of 7th idem, Part I, p. 1, and in the Coorg District Gazette of 1st February, 1893, Part I, p. 10.*)

A Regulation to repeal certain Obsolete Enactments applying to Coorg.

WHEREAS it is expedient that certain enactments which are spent, or have by lapse of time become unnecessary, should be expressly and specifically repealed; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Coorg Repealing Regulation, 1893.

(*2*) It extends to the territories administered by the Chief Commissioner of Coorg and subject to the provisions of the Statute 33 Victoria, chapter 3, section 1; and

(*3*) It shall come into force at once.

2. The enactments specified in the schedule are hereby repealed to the extent mentioned in the fourth column thereof. Enactments in schedule repealed.

3. This Regulation shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted; Savings.

nor shall the repeal by this Regulation of any enactment provide or restore any jurisdiction, liability, right, title, privilege, restriction, exemption, procedure or other matter or thing not now existing or in force.

THE SCHEDULE.

Regulations made under the Statute 33 Victoria, Chapter 3.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1881	I	Repealing Madras Acts I of 1863 and I of 1873 in Coorg.	The whole.
"	II	Coorg Courts Regulation, 1881 . . .	Sections 12 and 21.
1886	IV	Validation of certain decrees and orders .	The whole.

REGULATION No. IV OF 1893.

(*Received the Governor General's assent on the 30th January, 1893; published in the Gazette of India of 4th February, 1893, Part I, p. 54, and in the Coorg District Gazette of 1st March, 1893, Part I, p. 17.*

A Regulation to provide for the levy of a rate for the preparation and maintenance of Land-records and for Village-service in Coorg.

WHEREAS it is expedient to provide for the levy of a rate for the prepara-

tion and maintenance of land-records and for village-service in Coorg; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Coorg Land-records and Village-service Regulation, 1893.

(*2*) It extends to the whole of Coorg; and

(*3*) It shall come into force on such day[a] as the Chief Commissioner may appoint by notification in the Coorg District Gazette.

Interpretation-clause.

2. "Village-officer" means any officer employed in or about the business of the revenue or of the surveys, assessment, accounts or records connected therewith.

Imposition and application of rate.

3. (*1*) All fees, contributions and allowances which before the commencement of this Regulation have been customarily collected by village-officers for their support or remuneration, by whatever names such fees, contributions and allowances or such officers may be called, shall after the commencement of this Regulation be no longer collected.

(*2*) In lieu of such fees, contributions and allowances the Chief Commissioner may impose a rate upon all holders of land from and after such day as the Chief Commissioner may, by notification in the Coorg District Gazette, appoint in this behalf.

(*3*) The proceeds of the rate shall be devoted to the preparation and maintenance of land-records and to the remuneration of village-officers.

Limit of rate.

4. (*1*) The limit of the rate shall, from time to time, be determined by the Chief Commissioner, but shall not in any case exceed $14\frac{3}{8}$ pies in every rupee of assessment.

(*2*) In the case of rent-free lands or lands held wholly or partially free from assessment, such as jagir, jama, jodi, umbli and banes, the rate shall be levied on the full assessment which such lands would pay if they were not inams or otherwise privileged.

Recovery of rate.

5. The amount of the rate payable by each holder of land shall be entered in his patta and may be realized in the manner provided for the recovery of an arrear of revenue under the Coorg Revenue Regulation (I of 1889).[b]

Jurisdiction in case of any dispute.

6. (*1*) No claim to the enjoyment of any portion of the rate, and no question regarding liability to payment of the same, shall be cognizable by any Civil Court.

(*2*) Any such claim or question must be decided by the Commissioner of Coorg.

(*3*) Every order of the Commissioner under this Regulation shall be appealable to the Chief Commissioner within three months from the date thereof, and the decision of the Chief Commissioner on the appeal shall be final.

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[a] The 1st April 1893—see Coorg District Gazette, 1893, Part I, p. 20.
[b] Printed *supra*, p. 141.

APPENDIX.

ENACTMENTS DECLARED IN FORCE IN, OR EXTENDED TO, COORG BY NOTIFICATION UNDER THE SCHEDULED DISTRICTS ACT, 1874.[a]

[The Chief Commissionership of Coorg is a Scheduled District—see the Scheduled Districts Act, 1874,[a] First Schedule, Part VII; and the Act was brought into force there by Notification No. 305, dated the 22nd February, 1875 (published in the Gazette of India, 1875, Part I, page 95), which runs as follows:—With the sanction of the Governor General in Council, the Chief Commissioner of Coorg is pleased to declare, under section 3 of the Scheduled Districts Act, 1874,[a] that the said Act is in force in the Chief Commissionership of Coorg.]

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
				(1).—Bengal Regulation.
				The 12th February, 1887.
1818	III[b]	State Prisoners.	Extended .	*No. 5.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend Bengal Regulation III of 1818 (*A Regulation for the confinement of State Prisoners*), Act XXXIV of 1850 (*An Act for the better custody of State Prisoners*), and Act III of 1858 (*An Act to amend the law relating to the arrest and detention of State Prisoners*) to the Chief Commissionership of Coorg. [See Gazette of India, 1887, Pt. I, p. 97; Coorg District Gazette, 1887, Pt. I, p. 583.]

[a] Printed General Acts, 1867-76, Ed. 1887, p. 479.
[b] Printed *supra*, Part I.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
		(2).—*Acts of the Governor General in Council.*		
				The 27th December, 1878.
1841	XIX[a]	Curators in Cases of Succession.	Declared in force.	*No. 1666.*—In exercise of the power conferred by section 3 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the sanction of the Governor General in Council, to declare that the enactments mentioned in the Schedule hereto annexed, so far as they have not been repealed, are in force in the Chief Commissionership of Coorg. 2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the said Chief Commissionership and not mentioned in the said schedule. (Here follows the Schedule, which contains, among other Acts, Act XIX of 1841.) [See Gazette of India, 1878, Pt. I, p. 747.]
1850	XVIII[a]	Protection of Judicial Officers.	Ditto .	See Notification No. 1666, dated 27th December, 1878, *supra.*
"	XXI[a]	Non-forfeiture of Rights by loss of caste.	Ditto .	Ditto.
"	XXXIV[a]	State Prisoners.	Extended .	See Notification No. 5, dated 12th February, 1887, *supra*, p. 165.
				The 17th January, 1878.
1851	VIII[a], [b]	Tolls .	Ditto .	*No. 92.*—In exerise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act, 1874), the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend to the Chief Commissionership of Coorg the following Acts for enabling Government to levy tolls on public roads and bridges :— Act VIII of 1851. " XV of 1864. [See Gazette of India, 1878, Pt. I, p. 45.]

[a] Printed, General Acts, 1834-66, Ed. 1887.
[b] Though Act VIII of 1851 and Act XV of 1864 were extended to Coorg from the 17th January, 1878, by the Notification set out in the fourth column, both Acts were declared in force by Notification No. 1666, dated the 27th December, 1878, *supra.*

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
		(2).—*Acts of the Governor General in Council*—contd.		
				The 20th May, 1881.
1852	XXX[a]	Naturalization of Aliens.	Declared in force.	*No. 696.*—In exercise of the power conferred by section 3 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the sanction of the Governor General in Council, to declare that Act XXX of 1852 (*An Act for the Naturalization of Aliens*) is in force in the Chief Commissionership of Coorg. [See Gazette of India, 1881, Pt. I, p. 203.]
1856	XV[a]	Re-marriage of Hindu widows.	Ditto .	See Notification No. 1666, dated 27th December, 1878, *supra*, p. 166.
1858	III [a]	State Prisoners.	Extended .	See Notification No. 5, dated 12th February, 1887, *supra*, p. 165.
				The 4th March, 1887.
„	XXXVI[a]	Lunatic Asylums.	Ditto . .	*No. 9.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend to the Chief Commissionership of Coorg the Lunatic Asylums Act, XXXVI of 1858, as amended by Act XVIII of 1886. [See Gazette of India, 1887, Pt. I, p. 144.]
1859	XIII [a]	Fraudulent breaches of Contract by workmen.	Declared in force.	See Notification No. 1666, dated 27th December, 1878, *supra*, p. 166.
1860	XXVII[b]	*Collection of Debts on Succession.*	*Ditto* . .	*Ditto.*

[a] Printed, General Acts, 1834-66, Ed 1887.
[b] Act XXVII of 1860 was repealed by Act VII of 1889.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
		(2).—*Acts of the Governor General in Council*—contd.		
				The 6th February, 1888.
1861	V [a]	Police (except sections 1, 3, 4, 5, 6, 8, 11, 21, 28, 33, 37, 41 43, 46 and 47).	Extended .	*No. 4.*—In exercise of the powers conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), the Officiating Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, in supersession of Home Department Notification No. 35, dated the 5th February, 1879, to extend Act V of 1861 (*an Act for the Regulation of Police*) to the District of Coorg, with the exception of the undermentioned sections, namely:—1, 3, 4, 5, 6, 8, 11, 21, 28, 33, 37, 41, 43, 46 and 47. [See Gazette of India, 1888, Pt. I, p. 88; Coorg District Gazette, 1888, Pt. I, p. 28.]
				The 3rd July, 1888.
"	"	Ditto . (sections 4 and 37).	Ditto .	*No. 29.*—In exercise of the powers conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), and in modification of Notification No. 4, dated the 6th February, 1888, extending certain sections of Act V of 1861 (*an Act for the Regulation of Police*) to the District of Coorg, sections 4 and 37 of the latter Act are also, with the previous sanction of the Governor General in Council, extended by the Chief Commissioner of Coorg to that District. [See Gazette of India, 1888, Pt. I, p. 323; Coorg District Gazette, 1888, Pt. I, p. 59.]
1864	VI[b]	Whipping .	Declared in force.	See Notification No. 1666, dated 27th December, 1878, *supra*, p. 166.
"	XV[b], [c]	Tolls .	Extended .	See Notification No. 92, dated 17th January, 1878, *supra*, p. 166.
				The 19th June, 1878.
1867	III[d]	Gambling .	Ditto .	*No. 761.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), and with the

[a] For Act V of 1861 see the revised edition, as modified up to 1st August, 1892, published by the Legislative Department.
[b] Printed, General Acts, 1834-66, Ed. 1887.
[c] See foot-note to Act VIII of 1851, *supra*, p. 166.
[d] Printed *supra*, Part II.

***Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874*—continued.**

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
		(2).—*Acts of the Governor General in Council*—contd.		
1867	III—*contd.*	Gambling.		previous sanction of the Governor General in Council, the Chief Commissioner of Coorg is pleased to extend Act III of 1867 (*An Act to provide for the punishment of public gaming and the keeping of common gaming-houses*) to the Chief Commissionership of Coorg. The Chief Commissioner of Coorg will exercise the powers of a Chief Commissioner under that Act. [See Gazette of India, 1878, Pt. I, p. 373.]
1869	XV[a]	Prisoners' Testimony.	Declared in force.	See Notification No. 1666, dated 27th December, 1878, *supra*, p. 166.
1870	XXIII[a]	Coinage .	Ditto .	Ditto.
				The 31st July, 1876.
1873	X[a]	Oaths .	Extended .	*No. 1286.*—In exercise of the powers conferred by sections 5 and 6 of Act XIV of 1874 (the Scheduled Districts Act), and with the previous sanction of the Governor General in Council, the Chief Commissioner of Coorg is pleased to extend the Indian Oaths Act, X of 1873, to the Chief Commissionership of Coorg, and to direct that the powers conferred on the High Court by section 7 of such Act shall be exercised by the Judicial Commissioner of Coorg. [See Gazette of India, 1876, Pt. I, p. 417.]
				The 14th June, 1882.
"	XV[b]	Municipalities (except sections 34 and 35).	Ditto .	*No. 835.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act, 1874), the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend Act XV of 1873 (the North-Western Provinces and Oudh Municipalities Act, 1873), except sections 34 and 35, to the Chief Commissionership of Coorg. [See Gazette of India, 1882, Pt. I, p. 233.]

[a] Printed, General Acts, 1867-76, Ed 1887.
[b] Printed *supra*, Part II.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
		(2).—*Acts of the Governor General in Council*—contd.		
				The 27th May, 1882.
1877	I[a]	Specific Relief.	Extended .	*No. 742.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend Act I of 1877 (the Specific Relief Act), to the Chief Commissionership of Coorg. [See Gazette of India, 1882, Pt. I, p. 217.]
				The 27th December, 1878.
,,	X[b]	*Civil Procedure.*	*Ditto* . .	*No. 1667.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the sanction of the Governor General in Council, to extend Act X of 1877 (the Code of Civil Procedure) to the Chief Commissionership of Coorg.* [See Gazette of India, 1878, Pt. I, p. 747.]
				The 5th June, 1886.
1878	XVII[c]	Ferries (except s. 1, paras. 2 & 3, and ss. 2, 7A, 17 & 36.	Ditto . .	*No. 37.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend to the Chief Commissionership of Coorg the Northern India Ferries Act, 1878 (XVII of 1878), as amended by Act III of 1886, with the exception of the 2nd and 3rd paragraphs of section 1 and sections 2, 7 A, 17 and 36 thereof. [See Gazette of India, 1886, Pt. I, p. 382; Coorg District Gazette, 1886. Pt. I, p. 282.]

[a] Printed, General Acts, 1877-81, Ed. 1884.
[b] Act X of 1877 was repealed by Act XIV of 1882, of which a revised edition, as modified up to 1st July, 1888, has been published by the Legislative Department.
[c] Printed *supra*, Part II.

***Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874*—continued.**

Year	No.	Subject.	Whether declared in force or extended.	Notification.
		(2).—*Acts of the Governor General in Council*—contd.		
				The 2nd February, 1880.
1879	XII[a]	Amending Code of Civil Procedure, etc.	Extended .	*No. 119.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the sanction of the Governor General in Council, to extend Act XII of 1879 (*An Act to amend the Code of Civil Procedure*) to the Chief Commissionership of Coorg. [See Gazette of India, 1880, Pt. I, p. 93.]
				The 1st June, 1882.
1882	XIV[b]	Civil Procedure (except sections 1 and 3).	Ditto .	*No. 761*—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act, 1874), the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend Act XIV of 1882 (the Code of Civil Procedure) to the Chief Commissionership of Coorg, except sections 1 and 3, which are already in force. [See Gazette of India, 1882, Pt. I, p. 217.]
1886	III[c]	Ferries (amending Act XVII of 1878).	Ditto .	See Notification No. 37, dated 5th June, 1886, *supra*, p. 170.
„	XVIII[d]	Lunatic Asylums (amending Act XXXVI of 1858).	Ditto .	See Notification No. 9, dated 4th March, 1887, *supra*, p. 167.

[a] Act XII of 1879, so far as it amends the Code of Civil Procedure, was repealed by Act XIV of 1882. The unrepealed portions of the Act are printed in General Acts, 1877-81, Ed 1884.

[b] For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.

[c] Printed *supra*, Part II

[d] Printed, General Acts, 1885-88, Ed. 1889.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
				(2).—*Acts of the Governor General in Council*—concld.
				The 30th August, 1888.
1888	VII[a]	Amending Code of Civil Procedure, &c, (except so much as amends the Indian Registration and Limitation Acts, 1877).	Extended	*No. 38.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Officiating Chief Commissioner of Coorg, with the previous sanction of the Governor General in Council, extends to the District of Coorg the Civil Procedure Code Amendment Act, VII of 1888, except so much thereof as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877, which is already in force. [See Gazette of India, 1888, Pt. I, p. 409; Coorg District Gazette, 1888, Pt. I, p. 94.]
				The 7th May, 1889.
"	X [a]	Ditto (sections 1 and 3).	Ditto	*No. 11.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Coorg, with the previous sanction of the Governor General in Council, extends to the District of Coorg sections 1 and 3 of Act X of 1888 (*to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882*). [See Gazette of India, 1889, Pt. I, p. 286; Coorg District Gazette, 1889, Pt. I, p. 33.]
				(3).—*Acts of the Governor of Fort St. George in Council.*
				The 22nd February, 1875.
1873	I[b]	*Wild Elephants.*	*Extended*	*No. 306.—With the sanction of the Governor General in Council, the Chief Commissioner of Coorg is pleased to extend, under section 5 of the Scheduled Districts Act, 1874, to the Chief Commissionership of Coorg, the Act of the Governor of Fort St. George in Council, No. I of 1873 (An Act to prevent the indiscriminate destruction of wild elephants).* [See Gazette of India, 1875, Pt. I, p 95.]

[a] Printed, General Acts, 1885-88, Ed. 1889.
[b] Madras Act I of 1873 was repealed in Coorg by Regulation I of 1881.

***Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874*—concluded.**

Year.	No.	Subject.	Whether declared in force or extended.	Notification.

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